No. 178, of Beacon, Iowa, and No. 1727, of Hilton, Iowa, favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. LITTLEFIELD: Petition of Henry W. Mayo and other citizens of Hampden, Me., urging the passage of the joint resolution for the erection of a monument to the memory of Dorothea Lynde Dix—to the Committee on the Library.

By Mr. MERCER: Papers to accompany House bill 14750, granting a pension to Thomas G. Kelsey—to the Committee on Invalid Pensions.

Also, papers to accompany House bill 14749 granting an increase of pension to Margaret Heelan—to the Committee on Invalid Pensions.

By Mr. NAPHEN: Resolutions of the New England Shoe and Leather Association, for the enactment of irrigation legislation—to the Committee on Irrigation of Arid Lands.

By Mr. OTJEN: Petition of Wisconsin Sunday Rest Day Association, Milwaukee, Wis., for the restriction of Sunday work and traffic—to the Committee on the Judiciary.

By Mr. POWERS of Massachusetts: Resolutions of the board of aldermen and common council of Medford, Mass., indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, resolutions of Provincetown Maritime Exchange, in favor of a law to pension men of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

By Mr. RICHARDSON of Alabama: Papers to accompany House bill for the relief of the trustees of the Cumberland Presbyterian Church of New Garden Camp Ground—to the Committee on War Claims.

By Mr. ROBERTS: Resolutions of the city governments of Medford and Everett, Mass., favoring the passage of House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, resolutions of Provincetown Maritime Exchange, urging the passage of House bill 163, to pension employees and dependents of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of the New England Shoe and Leather Association, against admitting Arizona, New Mexico, and Oklahoma as States—to the Committee on Territories.

Also, resolutions of the same association, favoring certain investigations of irrigation by the United States Geological Survey—to the Committee on Irrigation of Arid Lands.

By Mr. RUPPERT: Resolutions of Electrical Workers' Association No. 3, of New York, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. SCOTT: Resolution of the joint convention of the Bankers' Associations of Kansas, Missouri, Oklahoma and Indian Territories, protesting against the passage of the Fowler bill—to the Committee on Banking and Currency.

By Mr. SHOWALTER: Petitions of citizens of Newcastle, Sharon, Greenville, and Beaver Falls, Pa., favoring further restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petitions of 300 citizens of Beaver Falls, 100 citizens of Volent, 200 citizens of College Hill, 50 citizens of Chicora, 125 citizens of Beaver County, 300 citizens of New Brighton, citizens of Jacksonville and Plain Grove, and 600 citizens of Butler County, Pa., favoring an amendment to the Constitution to prevent polygamy—to the Committee on the Judiciary.

By Mr. TIRRELL: Resolutions of the Fitchburg Woman's Club, favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

Also, resolutions of Clinton Turn Verein, in opposition to House bill 12199, relating to immigration—to the Committee on Immigration and Naturalization.

By Mr. VAN VOORHIS: Petitions and papers of sundry citizens of Quaker City, Ohio, to accompany House bill granting an increase of pension to George W. Brill—to the Committee on Invalid Pensions.

Also, resolutions of United Brotherhood of Leather Workers on Horse Goods, No. 55, of Marietta, Ohio, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. WARNOCK: Petition of H. C. Scott Post, No. 111, of St. Paris, Grand Army of the Republic, Department of Ohio, for the passage of a bill to modify and simplify the pension laws—to the Committee on Invalid Pensions.

By Mr. WOOTEN: Petition of the president of the Texas State Pharmaceutical Association, favoring the passage of the metric system bill—to the Committee on Coinage, Weights, and Measures.

By Mr. YOUNG: Petitions of C. A. Weidmann and others, of Philadelphia, Pa., favoring the passage of the metric system bill—to the Committee on Coinage, Weights, and Measures.

SENATE.

WEDNESDAY, *June 4, 1902.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. HOAR, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

ACCOUNTS OF INDIAN TRADERS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement of the accounts of Indian traders with the Osage Indians at the Osage Agency, together with the sums due them from these Indians, etc.; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had passed the following bills:

A bill (S. 259) to establish a light-house and fog-signal station at Semiahmoo Harbor, Gulf of Georgia, Puget Sound, State of Washington; and

A bill (S. 3800) to grant certain lands to the State of Idaho.

The message also announced that the House had passed, with amendments, the bill (S. 312) providing that the circuit court of appeals of the eighth judicial circuit of the United States shall hold at least one term of said court annually in the city of Denver, in the State of Colorado, or in the city of Cheyenne, in the State of Wyoming, on the first Monday in September in each year; in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the following bills:

A bill (H. R. 11535) for the protection of game in Alaska, and for other purposes; and

A bill (H. R. 12346) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 1992) granting the right of way to the Alafia, Manatee and Gulf Coast Railway Company through the United States light-house and military reservations on Gasparilla Islands, in the State of Florida;

A bill (H. R. 12085) providing for the completion of a light and fog-signal station in the Patapsco River, Maryland; and

A bill (H. R. 14051) granting the consent of Congress to N. F. Thompson and associates to erect a dam and construct power station at Muscle Shoals, Alabama.

The message also returned to the Senate, in compliance with its request, the following bills:

A bill (S. 19) for the relief of George A. Orr;
A bill (S. 20) for the relief of Joseph W. Carmack;
A bill (S. 21) for the relief of John S. Neet, jr.;
A bill (S. 22) for the relief of Ezra S. Havens;
A bill (S. 567) for the relief of H. B. Matteosian; and
A bill (S. 1920) for the relief of Albert C. Brown.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 11535) for the protection of game in Alaska, and for other purposes; and it was thereupon signed by the President pro tempore.

PETITIONS AND MEMORIALS.

Mr. HOAR presented the petition of Franklin W. Smith, of Boston, Mass., praying that an appropriation be made for the purchase of the Halls of the Ancients, in the city of Washington, D. C., to be used as a public educational institution; which was referred to the Committee on the Library.

He also presented a petition of the Provincetown Maritime Exchange of Massachusetts, praying for the enactment of legislation granting pensions to certain officers and enlisted men in the Life-Saving Service, etc.; which was referred to the Committee on Pensions.

He also presented petitions of the common council of Medford, of the Central Labor Union of Brockton, and of the Central Labor Union of Fitchburg, all in the State of Massachusetts, praying for the enactment of legislation to increase the compensation of letter carriers; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. FAIRBANKS presented a petition of Anthony Wayne Post, No. 271, Department of Indiana, Grand Army of the Republic, of Fort Wayne, Ind., praying for the enactment of legislation granting pensions to certain officers and men in the Army and Navy when 50 years of age and over, etc.; which was referred to the Committee on Pensions.

He also presented petitions of Local Union No. 1671 and Local Union No. 1335, United Mine Workers of America, of Clinton, Ind., praying for the enactment of legislation to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases; which were ordered to lie on the table.

Mr. PLATT of Connecticut presented a petition of the Brotherhood of Locomotive Firemen, of Hartford, Conn., praying for the enactment of legislation providing for an educational test for immigrants to this country; which was referred to the Committee on Immigration.

He also presented a petition of Local Division No. 29, Order of Railroad Telegraphers, of New Haven, Conn., praying for the passage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the passage of any substitute therefor; which was ordered to lie on the table.

Mr. BLACKBURN presented petitions of sundry citizens of Kentucky, praying for the adoption of certain amendments to the internal-revenue law relative to the tax on distilled spirits; which were referred to the Committee on Finance.

Mr. SPOONER presented a resolution adopted at a meeting of the Turn Verein Yahn, in Wisconsin, expressing sympathy for the people of the South African Republic and the Orange Free State; which were referred to the Committee on Foreign Relations.

He also presented a petition of J. Bauman & Co. and 63 other citizens of Wisconsin, praying for the adoption of certain amendments to the internal-revenue law relative to the tax on distilled spirits; which was referred to the Committee on Finance.

He also presented petitions of Local Division No. 249, Brotherhood of Locomotive Engineers, of South Kaukauna, and of Rock River Lodge, No. 210, Brotherhood of Railroad Trainmen, of Janesville, in the State of Wisconsin, praying for the enactment of legislation providing an educational test for immigrants to this country; which were referred to the Committee on Immigration.

Mr. PERKINS presented petitions of Dewey Division, No. 398, Brotherhood of Locomotive Engineers, of San Bernardino; of Orange Grove Division, No. 392, Order of Railway Conductors, of San Bernardino; of Local Division No. 193, Order of Railway Conductors, of Sacramento; of Lodge No. 198, Brotherhood of Railway Trainmen, of San Francisco; of El Capitan Division, No. 115, Order of Railway Conductors, of San Francisco; of Lodge No. 278, Brotherhood of Railroad Trainmen, of San Bernardino, and of Golden Gate Division, No. 364, Order of Railway Conductors, of Oakland, all in the State of California, praying for the passage of the so-called Grosvenor anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases; which were ordered to lie on the table.

Mr. SCOTT presented a petition of the official board of the First United Brethren Church of Parkersburg, W. Va., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

Mr. HARRIS presented a petition of sundry citizens of Forest Park, Pittsburg, Kans., praying for the enactment of legislation to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases; which was ordered to lie on the table.

Mr. MASON presented a petition of the Liquor Dealers' Association of Moline, Ill., and of sundry citizens of Illinois, praying for the adoption of certain amendments to the internal-revenue laws relative to the tax on distilled spirits; which were referred to the Committee on Finance.

He also presented a petition of the board of supervisors of Adams County, Ill., praying for the adoption of an amendment to the Constitution providing for the election of United States Senators by direct vote of the people; which was ordered to lie on the table.

He also presented resolutions of the Commercial Club of Omaha, Nebr., and of the fifth annual convention of the National Building Trades Council of America, favoring the enactment of legislation providing for the irrigation of the arid lands of the country; which were ordered to lie on the table.

He also presented petitions of the Kosciusko Society, of La Salle, and of the King Mieczyslawa Society, of Chicago, in the State of Illinois, praying that an appropriation be made for the erection of a statue to Count Pulaski; which were referred to the Committee on Library.

He also presented a petition of the board of directors of the Illinois Manufacturers' Association, of Chicago, Ill., praying for the adoption of certain amendments to the interstate-commerce law; which was referred to the Committee on Interstate Commerce.

He also presented petitions of Harmony Division, No. 417, Brotherhood of Locomotive Engineers; of Woodlawn Lodge, No. 451, Brotherhood of Locomotive Firemen, of Chicago; of Local Division No. 79, Order of Railway Conductors, of Peoria, and of Columbian Lodge, No. 479, Brotherhood of Railroad Trainmen, of Chicago, all in the State of Illinois, praying for the passage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases; which were ordered to lie on the table.

He also presented a petition of the Federation of Labor of Springfield, Ill., praying for the enactment of legislation to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases; which was ordered to lie on the table.

He also presented a memorial of the Old Bethel Reformed Presbyterian Church, of Houston, Ill., remonstrating against the reenactment of the so-called Chinese-exclusion law; which was ordered to lie on the table.

He also presented petitions of Bricklayers' Local Union No. 20, of Springfield; of Boot and Shoe Workers' Local Union No. 265, of Dunn; of Bricklayers' Local Union No. 20, of Waukegan; of Locomotive Firemen's Local Union No. 217, of East St. Louis; of Typographical Union No. 29, of Peoria; of Engineers' Local unions No. 594 and 595, of Chicago; of Flour Mill Workers' Local Union No. 8036, of Murphysboro; of Locomotive Firemen's Local Union No. 275, of Chicago; of Locomotive Firemen's Local Union No. 536, of Mount Carmel; of Local Union No. 271, of Champaign; of Locomotive Firemen's Local Union No. 538, of Chicago; of Carriage and Wagon Workers' Local Union No. 4, of Chicago; of Bakers' Local Union No. 5, of East St. Louis; of Bricklayers' Local Union No. 24, of Canton, and of Locomotive Firemen's Local Union No. 49, of Decatur; all in the State of Illinois, praying for the reenactment of the Chinese-exclusion law; which were ordered to lie on the table.

He also presented resolutions adopted by the board of directors of the Merchants' Exchange of San Francisco, Cal., favoring the unrestricted entrance into the United States of the mercantile class of Chinese; which were ordered to lie on the table.

Mr. FRYE presented a petition of the Board of Trade of Bangor, Me., praying for the enactment of legislation granting pensions to certain officers and enlisted men in the Life-Saving Service, etc.; which was referred to the Committee on Pensions.

He also presented the petition of Handy Ballard and sundry other members of the Grand Army of the Republic of Louisiana and Mississippi, praying for the enactment of legislation to modify and simplify the pension laws of the United States; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. PRITCHARD, from the Committee on Pensions, to whom was referred the bill (H. R. 6890) granting an increase of pension to Robert G. Scroggs, reported it without amendment, and submitted a report thereon.

Mr. GALLINGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 6040) granting an increase of pension to John W. Craine;

A bill (H. R. 14012) granting a pension to Fannie Reardon;

A bill (H. R. 10172) granting an increase of pension to Thomas Finegan; and

A bill (H. R. 14118) granting a pension to Mary C. Bickerstaff.

Mr. HALE, from the Committee on Naval Affairs, to whom were referred the following bills, reported them each without amendment, and submitted reports thereon:

A bill (S. 5724) for the relief of Paymaster James E. Tolfree, United States Navy; and

A bill (S. 5725) for the relief of Pay Clerk Charles Blake, United States Navy.

Mr. STEWART, from the Committee on Claims, to whom was referred the bill (S. 3975) to refund internal-revenue taxes paid by owners of private dies, reported it without amendment, and submitted a report thereon.

Mr. MARTIN, from the Committee on Claims, to whom was referred the bill (S. 6023) for the relief of John Scott, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the

bill (S. 3034) for the relief of the owners and officers of the brig *Olive Frances* and others on board said brig, reported it without amendment, and submitted a report thereon.

Mr. McLAURIN of South Carolina, from the Committee on Claims, to whom was referred the bill (H. R. 5550) for the relief of W. C. Taylor, reported it without amendment, and submitted a report thereon.

He also, from the same committee, reported an amendment proposing to appropriate $879.78, to pay James M. Steep, from the proceeds of the District of Columbia, for bonds issued under the act of Congress approved June 16, 1880, being the amount of a judgment rendered by the Court of Claims against the District of Columbia in his favor, intended to be proposed to the general deficiency appropriation bill, and moved that it be printed, and, with the accompanying papers, referred to the Committee on Appropriations; which was agreed to.

Mr. WARREN. I am directed by the Committee on Claims, to whom was referred the bill (H. R. 2641) for the relief of Albion M. Christie, to report it without amendment, and submit a report thereon.

The PRESIDENT pro tempore. The bill will be placed on the Calendar.

Mr. WARREN. From the Committee on Claims I report adversely 47 different bills, representing claims which have been cared for in other legislation. In order to take the bills from the files of the committee and that the papers in the several cases may be returned to the Secretary of the Senate, I report the bills back and ask that they be indefinitely postponed.

The bills were postponed indefinitely, as follows:

A bill (S. 3969) for the relief of O. F. Adams;

A bill (S. 349) for the relief of Virginia I. Mullan;

A bill (S. 244) for the relief of the Atlantic Works, of Boston, Mass.;

A bill (S. 1601) for the relief of Arthur L. Fish;

A bill (S. 4005) for the relief of the Brooklyn Ferry Company, of New York;

A bill (S. 43) to permit Anna M. Colman, a widow, to prosecute a claim;

A bill (S. 90) for the relief of Cumberland Female College, of McMinnville, Tenn.;

A bill (S. 454) to authorize the Secretary of the Treasury to settle the mutual account between the United States and the State of Florida, heretofore examined and stated by said Secretary, under the authority of the Congress, and for other purposes;

A bill (S. 635) to provide for the settlement of accounts between the United States and the State of South Carolina;

A bill (S. 644) to reimburse the States of California, Oregon, and Nevada for moneys by them expended in the suppression of the rebellion;

A bill (S. 655) for the relief of the New York, New Haven and Hartford Railroad Company;

A bill (S. 855) for the relief of Mrs. Charlotte C. Leathers;

A bill (S. 1051) for the relief of the estate of James Campbell, deceased;

A bill (S. 1218) for the relief of the legal representatives of Merrick, Merrick & Cope;

A bill (S. 1310) for the relief Curtis & Tilden;

A bill (S. 1311) for the relief of the heirs of Jacob R. Davis;

A bill (S. 1449) for the relief of the beirs of the late Charles P. Culver;

A bill (S. 2340) for the relief of Charles H. Adams;

A bill (S. 3353) for the relief of the trustee of St. Joseph's Catholic Church, at Martinsburg, W. Va.;

A bill (S. 3747) providing for the adjustment and settlement of the claim of the State of Virginia against the United States for advances and expenditures made in the war of 1812 with Great Britain;

A bill (S. 3885) for the relief of the estate of Samuel T. Carrow, deceased;

A bill (S. 3920) to pay to the State of West Virginia money advanced to certain officers of the One hundred and thirty-third Regiment West Virginia Militia;

A bill (S. 3921) for the relief of the Methodist Episcopal Church of Martinsburg, W. Va.;

A bill (S. 3934) for the relief of the owners and crew of the Hawaiian bark *Arctic;*

A bill (S. 3935) for the relief of Winslow Warren;

A bill (S. 2953) for the relief of the Cumberland Female College of McMinnville, Tenn.;

A bill (S. 40) for the relief of the Catholic Church at Macon City, Mo.;

A bill (S. 3938) to reimburse G. H. Kitson for money advanced to the Menominee tribe of Indians of Wisconsin;

A bill (S. 3932) for the payment of the claim of M. M. Defrees for the construction of a sewer adjacent to the lands of the United States known as the "Arsenal grounds," in the city of Indianapolis, Ind.;

A bill (S. 1869) for the relief of Rinaldo P. Smith;

A bill (S. 2121) for the relief of the legal representatives of John H. Jones and Thomas D. Harris;

A bill (S. 3919) for the relief of John W. Kennedy;

A bill (S. 3936) for the relief of the sufferers by the wreck of the U. S. revenue cutter *Gallatin* off the coast of Massachusetts;

A bill (S. 3923) for the relief of George W. Weston;

A bill (S. 1357) for the relief of Emile M. Blum and James S. Seymour;

A bill (S. 4010) for the relief of the legal representatives of Gilman Sawtelle;

A bill (S. 923) for the relief of Avery D. Babcock and wife, of Oregon;

A bill (S. 279) for the relief of James C. Drake;

A bill (S. 658) for the relief of Twyman O. Abbott;

A bill (S. 3928) for the relief of the heirs of Lawrence D. Bailey;

A bill (S. 351) for the relief of Catherine Burns;

A bill (S. 1687) for the relief of Elias E. Barnes;

A bill (S. 2751) for the relief of Charles H. Adams;

A bill (S. 346) for the relief of the Merchants and Miners' Transportation Company, of Baltimore, Md.;

A bill (S. 3223) to confer jurisdiction upon the Court of Claims to hear and adjudicate the claim of the personal representatives of William Kiskadden, deceased;

A bill (S. 1612) for the relief of George F. Roberts, administrator of the estate of William B. Thayer, deceased, surviving partner of Thayer Brothers, and others; and

A bill (S. 94) for the relief of the estate of Andrew J. Duncan, deceased.

Mr. KITTREDGE, from the Committee on Claims, to whom was referred the bill (S. 917) for the relief of John H. McLaughlin, reported it without amendment, and submitted a report thereon.

He also, from the Committee on Forest Reservations and the Protection of Game, to whom was referred the bill (S. 3374) to protect forest reserves and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. DOLLIVER, from the Committee on Pacific Railroads, to whom was referred the bill (H. R. 10299) authorizing the Santa Fe Pacific Railroad Company to sell or lease its railroad property and franchises, and for other purposes, reported it without amendment, and submitted a report thereon.

Mr. WETMORE, from the Committee on the Library, to whom was referred the bill (S. 4980) to incorporate the American Academy in Rome, reported it with amendments, and submitted a report thereon.

READING MATTER FOR THE BLIND.

Mr. ELKINS. I am directed by the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 2644) to promote the circulation of reading matter among the blind, to report it back with amendments, and I ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. The bill will be read to the Senate for its information.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. ELKINS. I ask that the amendments be read.

The PRESIDENT pro tempore. The proposed amendments will also be read.

The SECRETARY. In line 5, after the word "packages," insert:

And containing no advertising or other matter whatever.

Mr. ELKINS. There is one other amendment.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. HALE. I should like to have an opportunity to examine and ascertain whether there are any precedents for the Government to transport free through the mails matter in relation to any particular class of people in private institutions. If you start with the blind you must follow that with the mutes.

Mr. HOAR. And invalid soldiers.

Mr. HALE. And as the Senator at my right suggests, invalid soldiers. I fear it would be starting what might be a very serious innovation. It seems to me that these things go altogether too easy. Abrupt departures from what have been our laws and our practice are desired by somebody who has a special interest. I am subject to the same experience. That somebody writes to a Senator and asks him that the action of Congress, the remedy which is universal for everything that is wanted, shall be invoked.

I do not think we are careful enough, Mr. President, about reporting such innovations. I must object to the present consideration of the bill until I can have an opportunity to examine it.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

LEWIS CASS SMITH AND OTHERS.

Mr. MARTIN, from the Committee on Claims, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the bills (S. 2667, S. 2348, and S. 4770) entitled, respectively, "A bill for the relief of Lewis Cass Smith and of the estates of Elisha G. Abbott, deceased, and Mrs. Zarelda E. Abbott, deceased," and "A bill for the relief of Edmond Sacra," and "A bill for the relief of John Lippincott and others," now pending in the Senate, together with all the accompanying papers, be, and the same are hereby, referred to the Court of Claims in pursuance of the provisions of an act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887; and the said court shall proceed with the same in accordance with the provisions of such act, and report to the Senate in accordance therewith.

SERVICE ON RECEIVING SHIP.

Mr. WARREN, from the Committee on Claims, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the bill (S. 5949) entitled "A bill for the relief of certain naval officers and their legal representatives now pending in the Senate, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims, in pursuance of the provisions of an act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887. And the said court shall proceed with the same in accordance with the provisions of such act, and report to the Senate in accordance therewith.

LIEUT. JEROME E. MORSE.

Mr. GALLINGER. I am directed by the Committee on Naval Affairs, to whom was referred the bill (H. R. 720) for the relief of Lieut. Jerome E. Morse, to report it favorably without amendment. A similar bill has passed the Senate two or three times, and I ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. The bill will be read.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes the Secretary of the Navy to transfer Lieut. Jerome E. Morse, of the retired list of the United States Navy, from the half-pay list to the 75 per cent pay list of retired officers, under section 1588 of the Revised Statutes of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RETIREMENT OF SENIOR MAJOR-GENERAL.

Mr. QUAY. I ask the unanimous consent of the Senate to take up the bill (S. 5968) to authorize the promotion and retirement of the present senior major-general of the Army. It is a bill which was reported unanimously from the Committee on Military Affairs and must go to the House at once if it is to have any efficacy.

The PRESIDENT pro tempore. It will be read to the Senate for its information.

Mr. MONEY. Has the order been completed for the introduction of bills?

The PRESIDENT pro tempore. It has not been completed.

Mr. MONEY. I desire to introduce a bill, if the Senator from Pennsylvania will allow me.

The PRESIDENT pro tempore. That order has not yet been reached. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That the President may, with the advice and consent of the Senate, appoint the present senior major-general of the Army to the rank of Lieutenant-General and place that officer on the retired list with the rank and allowance of that grade.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment.

Mr. BACON. I ask that some Senator inform me, simply for information, who is the major-general designated?

Mr. QUAY. Maj. Gen. John R. Brooke.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PLATT of Connecticut. Mr. President, the bill has passed, and therefore anything I say will not be considered as being in opposition to the passage of the bill, but I should like to have the attention of the Senate, and especially of the members of the Committee on Military Affairs, for just a moment.

I think if we are going to do these things we had better make a permanent grade, so that there shall be promotions to it, and not go on appointing this officer and that officer to be lieutenant-general and then every time a person so appointed goes out have some one come in by legislation. If we are going to do it, we might as well have a permanent grade of lieutenant-general.

Mr. WARREN. I should like unanimous consent to say just a word following the remark by the Senator from Connecticut.

I agree with the Senator and go further. I think that the cases of all Army officers who served honorably and well through the civil war and through the Indian wars and the Spanish war ought to be taken up, and a bill should be prepared providing for their retirement at one grade higher than they are at time of retirement, excepting the cases where colonels or generals have been raised one grade just before retirement for this very purpose. I hope that such a bill will be at some time reported from the Committee on Military Affairs and passed.

EMPLOYMENT OF MESSENGER.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. FORAKER on the 3d of April, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Pacific Islands and Porto Rico be, and it hereby is, authorized to employ a messenger, to be paid from the contingent fund of the Senate, at the rate of $1,440 per annum, until otherwise provided by law.

EMPLOYMENT OF ASSISTANT CLERK.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. MCCUMBER February 15, 1902, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Manufactures be, and it is hereby, authorized to employ an assistant clerk, to be paid from the miscellaneous items of the contingent fund of the Senate, at the rate of $1,440 per annum, until otherwise provided for by law.

EMPLOYMENT OF MESSENGER.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was recommitted the resolution submitted by Mr. KEAN February 7, 1902, reported it without amendment; and it was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on the Geological Survey be, and is hereby, authorized to employ a messenger, to be paid from the contingent fund of the Senate, at the rate of $1,440 per annum, until otherwise ordered.

EXTENSION OF FREE-DELIVERY SYSTEM.

Mr. MASON. I desire to make a report from the Committee on Post-Offices and Post-Roads, and I call the attention of the senior Senator from Minnesota [Mr. NELSON] to it.

I am directed by the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 909) to amend an act entitled "An act to extend the free-delivery system of the Post-Office Department, and for other purposes," approved January 3, 1887, to report it favorably without amendment, and I ask for its immediate consideration. I will state that the bill is presented upon the recommendation of the Post-Office Department, and it permits the establishment of free-delivery service in cities of 5,000 inhabitants.

The PRESIDENT pro tempore. The bill will be read to the Senate.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. PLATT of Connecticut. I think the bill ought to be explained a little.

Mr. MASON. The bill was introduced by the senior Senator from Minnesota [Mr. NELSON]. It is exactly a copy of the present law, except that the limitation upon the number of inhabitants is reduced, so that the Postmaster-General may establish free delivery in cities of 5,000 if it is desirable. The bill is recommended by the Postmaster-General.

Mr. NELSON. If the Senator from Connecticut will have the kindness to give me his attention a moment I can explain in a few words the changes in existing law.

Under existing law free delivery can be given in towns that have a population of 8,000 or where the gross income of the office is $8,000. The only change this bill makes is to provide that in towns of 5,000 inhabitants or in towns where the gross income of the office is $5,000 free delivery may be established. The entire change in the existing law is the substitution of the word "five" in two places for the word "eight," making it 5,000 as to population and $5,000 as to income.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THIERMAN & FROST.

Mr. MASON. I am directed by the Committee on Claims, to whom was referred the bill (H. R. 9597) for the relief of Thierman & Frost, to report it favorably without amendment. I desire to call the attention of the junior Senator from Kentucky [Mr. BLACKBURN] to this report.

Mr. BLACKBURN. I ask unanimous consent for the immediate consideration of the bill.

The PRESIDENT pro tempore. It will be read to the Senate for its information.

Mr. MASON. I may state to the Senate that it is a bill which has been heretofore recommended by the Senate Committee on Claims, and the Senate bill is now on the Calendar. A similar bill came from the House, and I now report it from the Committee on Claims. It gives the Court of Claims jurisdiction, I understand.

Mr. BLACKBURN. I will state, with the permission of the Senate, that this bill has passed the House upon a unanimous recommendation of its Committee on Claims. A similar bill has been unanimously reported favorably by the Senate Committee on Claims and is on the Calendar. The only point, as I take it, involved in the bill is that the Government waives its right to plead the statute of limitations. The bill refers to the Court of Claims the claim of these Kentucky citizens.

Mr. SPOONER. To hear and determine?

Mr. BLACKBURN. To hear and determine. It simply waives the Government's right to plead the statute of limitations, as both committees of the House and Senate think it ought to be waived, for the record shows no laches upon the part of the claimants. They have had their claim pending here for twenty years, and the bill has passed one House and has then passed the other House. They have been guilty of no laches at all. The bill simply carries their claim to the Court of Claims to hear and determine, the Government waiving its right to plead the statute of limitations.

Mr. PLATT of Connecticut. Let the bill be read for information.

The bill was read, as follows:

Be it enacted, etc., That jurisdiction is hereby given the Court of Claims, any statute of limitations to the contrary notwithstanding, to hear, try, and determine the claim of Henry Thierman and White Frost, late partners doing business under the firm name and style of Thierman and Frost, by reason of the alleged unlawful seizure and sale by the revenue officers of the United States of the distillery property of the said Thierman and Frost in Concordia, in the State of Kentucky; and the said court shall have full power to determine whether said property was unlawfully seized and sold; and if the same were unlawfully seized or sold, then the said court shall try and determine whether, under the then existing laws of the United States, the said Thierman and Frost sustained any damages by reason thereof and whether the Government is or was liable under such laws for the damages sustained, limiting such damages to the reasonable value of the property seized and sold at the time of such seizure and sale; said case to be tried and determined under the laws, rules, and regulations governing proceedings in said court and upon such evidence as is legally admissible under the ordinary laws and rules of evidence as pursued in the practice of said court, hereby reserving to the Government the right to interpose any defense, whether legal or equitable, that it may have to said cause of action, except only the defenses based on the jurisdiction of the court and the statute of limitations: *Provided, however*, That said action shall be commenced within six months after this act shall go into effect: *And provided further*, That in said action the said court shall try and determine the question, notwithstanding any adjudication that may heretofore have been had, whether at the time of said seizure and sale there was any special tax due or owing by the said Thierman and Frost to the Government of the United States pertaining to said distillery, or growing out of the operation of the same, or on the output or product thereof; and if any such tax was then due or owing to the Government of the United States, the said court shall determine the amount thereof and apply the same as a set-off to any amount that may be found to have been due the said Thierman and Frost as damages sustained by them by reason of the wrongful seizure and sale of said distillery property and shall only enter a judgment in favor of the said Thierman and Frost for such balance, if any, as may be found to be due after applying as an offset any tax as aforesaid that may be found to be due without awarding any interest to either party: *And provided further*, That either party to such action shall have the right of appeal to the Supreme Court of the United States under the rules, laws, and regulations governing appeals in other cases from the Court of Claims.

Mr. SPOONER. I desire to ask the Senator from Kentucky if there was not an adjudication as to the validity of the tax and the validity of the seizure and sale?

Mr. BLACKBURN. I do not know, Mr. President. I have simply an impression to the effect that the points involved in the bill which are referred to the Court of Claims were never covered or embraced in any litigation had heretofore. I have an impression, however, that there was some litigation as to the question of tax due at that time to the Government, but it is merely an impression.

As I stated before, the Senate bill was unanimously reported from the Committee on Claims favorably, and the bill now before the Senate was so reported by the House Committee on Claims and passed the House, so that the Senate is now in the possession of both bills, one upon its Calendar on a favorable report from its own committee, and the House bill is also favorably reported.

Mr. SPOONER. I can see that if the distillery was seized and sold for nonpayment of a tax, and there is reasonable ground for the contention that it was an invalid tax, and that the seizure and sale were invalid, under those circumstances it would be entirely proper——

Mr. BLACKBURN. The Senator from Wisconsin is stating the facts of the case.

Mr. SPOONER. It would be entirely proper for Congress to waive any laches or failure to bring suit to contest the validity of the tax and seizure and sale at the proper time, But if the validity of the tax and the legality of the seizure and sale were years ago in the time of the transaction the subject of litigation and decision by courts having jurisdiction of the subject-matter and the parties, then this is an attempt after a great many years to grant practically an appeal from an adverse decision to the Court of Claims.

Mr. BLACKBURN. No.

Mr. SPOONER. I wanted to get at the fact; that is all.

Mr. BLACKBURN. Let me say to the Senator from Wisconsin, I am not advised nor do I know——

Mr. MASON. If the Senator will yield, I have the statement of it here in the report.

Mr. BLACKBURN. Very well.

Mr. MASON. The facts are, if the Senator will yield to me just a moment, that the Government brought suit for the tax afterwards and were defeated in every contention, and the House committee reported, notwithstanding that fact, that the Government should have this right, and the Senate committee concur in the conclusion. The report says:

The failure of the Government to secure a verdict in the principal suit against these parties does not seem to establish their equitable right, in view of all the facts, to compensation for alleged losses on account of the distraint and sale of the distillery property, or to any relief whatever from Congress.

That is quoted. The House committee says:

Your committee concur in the conclusions of the Committee on the Judiciary, as announced in their report to the House in the Forty-seventh Congress, on the facts as they are disclosed. We do not believe that we would be warranted, on the facts disclosed, to recommend the passage of a bill by Congress authorizing the payment of any definite or specific sum as damages to the claimants. But the committee take into consideration the fact that after the seizure of the distillery property the Government, by its proper officers, commenced suits against the claimants, Thierman & Frost, and the securities on their bonds, to recover the taxes claimed to be due to the Government; that these suits were tried and judgment was rendered in favor of the defendants. But these adjudications were not on merits of the case.

So the bill now provides that, the Government having taken the property without due process of law and destroyed it, as a matter of equity, if there was any tax due the Government, it should be set off in whatever damages the court might allow.

Mr. BLACKBURN. So it will appear that this saving clause is not for the benefit of the claimants, but it is for the benefit of the Government. The litigation of which the Senator from Wisconsin inquired was determined in favor of the claimants and against the Government.

Mr. MASON. That is right.

Mr. BLACKBURN. That provision of the bill declares that the Government shall not be precluded by reason of this adverse litigation, but that the Government shall have the right again to assert its claim for the tax which the court refused.

Mr. SPOONER. If the Senator will allow the bill to go over until to-morrow I will look at it.

Mr. BLACKBURN. If the Senator prefers it, let it go over.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. SPOONER. I will not object.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

The PRESIDENT pro tempore. Shall the bill pass?

Mr. PLATT of Connecticut. Mr. President, there is very little time, in the way the bill is brought before the Senate, to determine whether it is a case that we ought to send to the Court of Claims or not. I merely rise now for the purpose of entering a mild protest against the idea which seems to prevail in the Senate that whenever anybody having a claim against the Government, be it recent or remote, wants to go to the Court of Claims such action is taken almost as a matter of course.

I do not speak of this claim, but of claims against the Government, and I speak more especially now with regard to what are known as Indian claims. These claims are worked up by attorneys, who, I fear with the aid of people in the Departments who have knowledge of Indian affairs and of treaties, come to the conclusion that possibly they may get something through the Court of Claims in favor of an Indian tribe. So they work up claims which the Indian tribes very often have never heard of, get a contract of 5, 10, or 15 per cent, and then come to Congress and ask that the claim may be referred to the Court of Claims for adjudication.

That is a very plausible request to make, and the Senate has very little time to consider whether it is a claim which is really of consequence enough and which has enough behind it to send it to the Court of Claims. So the matter goes upon request. Then an ex parte statement, which has been carefully and skillfully prepared by the attorneys, is submitted to the Court of Claims. It is true that the Attorney-General is directed to appear and make defense, but that defense is usually perfunctory, and the Court of Claims renders judgment practically upon an ex parte hearing of the case. I do not wish to say that it does so absolutely, but

from the nature of these old claims the attorneys who are prosecuting them are the ones who have given most particular attention to them, who have presented them by putting forward everything in favor of a claim and carefully excluding in many cases everything which would bear on the right of the Government.

I am convinced, Mr. President, that the Government has thus suffered a loss of millions and millions of dollars growing out of just such circumstances as I have narrated, and out of the fact that we allow these claims to go to the Court of Claims for a judgment simply upon request.

I want to say that I think the practice here should be that no claim should be sent to the Court of Claims for judgment and decision unless, upon investigation by a committee, it be found, in the judgment of the committee, that there are really good grounds for supposing that the claim is a just claim; in other words, that we might apply in these cases the same rule which is applied in the early stage of criminal proceedings, that Congress should at least find that there is probable cause.

Now, take this claim. It has been before committees of Congress for the last twenty years, and each committee, so far as I have been able to read the reports, has said that it would not feel justified, with all the facts of the case as presented to the committee, in recommending to Congress that they should pay damages for the seizure of this distillery.

I suppose this bill will pass, but I wish to say now that we are sending cases to the Court of Claims with far too little investigation as to the validity of the claims which are sent there.

Mr. WARREN. Mr. President, with reference to the remarks made by the Senator from Connecticut [Mr. PLATT], I am very glad to have him speak so plainly his mind on this subject, and I thank him for it, but I want to say in justice to the Senate Committee on Claims that at the present time its mode of doing business is such that but a very small proportion of the claims that come before the committee are recommended for reference to the Court of Claims. I do not think we recommend as many as 2 per cent of all the bills which are requested of us to be sent to the Court of Claims. We recommend no bill to go to the Court of Claims unless it has first received the investigation and favorable recommendation of a subcommittee, and secondly the unanimous consent or vote of the entire committee or all of the members who are present at the time and constituting a majority of the whole committee upon the report of such subcommittee.

I appreciate the danger or liability on the part of Congress to not investigate sufficiently and to send too many cases to the Court of Claims; but I do not think we should draw the lines tightly enough to amount to a prejudice against any class of claims because it is the practice of attorneys to annoy the Senate and its members and committees. These attorneys annoy me as much probably as they annoy anybody, but nevertheless we must not allow this annoyance to cause us to refuse entirely the reference of claims to the Court of Claims for investigation and report or trial and judgment, as the case may be.

Mr. SPOONER. Mr. President, I wish to say but a single word in reply to something that was said by the Senator from Connecticut [Mr. PLATT] as to his general characterization of the manner in which the United States is represented before the Court of Claims. There have been times when I should have been entirely in accord with the statement of the Senator from Connecticut, but I do not feel that I can properly, without a protest, allow that statement to go as a characterization of the present situation in that respect.

The Assistant Attorney-General, who represents the Government before the Court of Claims in these matters, Mr. Louis A. Pradt, is from my State. I have known him a great many years. He is as conscientious, laborious, and clear-headed a lawyer as I know. He is as faithful in his attention to the Government's interest in these cases as a lawyer could be in attending to any private interest. I have had occasion myself within the last two years to know that he gives minute and careful attention to protecting the interests of the Government in these cases.

I know the Senator from Connecticut would not be willing to make a general statement which would do any man injustice; and I therefore have felt at liberty to say what I have said in regard to the present situation.

Mr. PLATT of Connecticut. No, Mr. President, I would not reflect upon the ability or diligence of anyone connected with the Attorney-General's Department who is charged with the duty of defending these cases in the Court of Claims; but that Department is a sadly overworked Department. I think I may venture to state without exaggeration that the present Attorney-General has no more legal force available to do the business of the Attorney-General's office for the United States than he had for his private practice in the city of Pittsburg before he became Attorney-General. Indeed, I doubt if he has as much.

The business of the Department of Justice has grown immensely with the growth of this great country. That Department is most sadly overworked, and all the officials of that Department who are called upon to try the claims which are sent to the Court of Claims on behalf of the Government are so overworked that it is utterly impossible for them to give to any Government case the care, the attention, the investigation, or the research which has been given to it on the part of the attorneys of the claimants. I might specify instances.

I know of one case sent to the Court of Claims last year which involved millions of dollars, where a subcommittee of the Committee on Indian Affairs had investigated it with great care and had discovered documents and records which seemed to sustain the Government side of the case. The case was tried. The direction of the committee was that all the papers and documents which had been collected should be placed in the hands of the Attorney-General, but it turned out that in some way they never reached him, and those defenses which the Committee on Indian Affairs had so carefully and laboriously discovered never were applied to the case at all.

Mr. SPOONER. Were they sent to the committee?

Mr. PLATT of Connecticut. It is said they were never received at the Attorney-General's Office. I do not know whether that be true. I suppose it is true; but I suppose there was some question about their transmission.

Mr. SPOONER. That is not the fault of the Attorney-General.

Mr. PLATT of Connecticut. Not at all. I beg the Senator to understand that I am not reflecting upon the ability or the diligence of the officers of the Attorney-General's Department. I am simply speaking of the impossibility, under existing conditions, with those old claims, some of which go back seventy-five years, that they should investigate and determine and bring forward all the defenses which the Government ought to have a right to interpose against these claims.

I do not suppose that anything I say will prevent the passage of this bill.

Mr. CULLOM. It has already passed, I understand.

Mr. PLATT of Connecticut. No; it has not. I beg the Senator's pardon.

Mr. CULLOM. I thought that this bill had already passed, Mr. President.

The PRESIDENT pro tempore. It has not.

Mr. PLATT of Connecticut. I do not think anything I say will interfere with the passage of this bill; but if these remarks which I have made call the attention of the Senate to what I consider a hasty, not to say loose, way of disposing of claims which are submitted to Congress, I shall be very glad.

I want to say one thing more, and I beg that what I say shall not be interpreted as reflecting upon the attention which any Senator gives to a matter which is referred to him, but I can refer to cases which have been acted upon at this session. For instance, a Senator introduces a bill for a constituent from his own State to send a case to the Court of Claims. The bill is referred in committee to that Senator as a subcommittee, and while that Senator undoubtedly thinks that he is giving it careful consideration, he in a few days reports to the full committee that the case should be sent to the Court of Claims, and it passes as a matter of course.

It was not so in the old time, Mr. President. I think the difficulty arises out of the fact that the duties and responsibilities of Senators have so increased with the growth of business that it is impossible for them to give that careful attention to such matters as used to be given to them in the Senate.

I can remember, Mr. President, when no claim either passed the Senate or was sent to the Court of Claims without the great Senator from New York, who then occupied the seat now so ably filled by the Senator from Wisconsin [Mr. SPOONER], made careful inquiry with reference to the claim, and each claim was fully considered and understood by the Senate before any action was taken upon it. If we should go back to the old practice I think we would do better.

I know how much there has been said about these claims having been for a long time neglected by the Government. I have no doubt it is true that many claims which ought to be paid by the Government have been neglected; but, on the other hand, Mr. President, I think that a great many claims which have a very shadowy foundation, either through the Court of Claims or through the want of careful attention by the Senate, are paid by the Government.

Mr. STEWART. Mr. President, I should like to make one remark in that connection.

It is true that the business of the country is growing so rapidly that the labors of Senators on the committees to which claims generally go are so great that they can not do justice to all the hundreds of claims which come before them. The labor is too great, and good claims frequently go over for years and years because they can not be reached and considered.

I think if the proposition were agreed to which we had here

last year, and which has been suggested several times, to have a well-paid attorney attend the Committee on Claims, the Committee on Indian Affairs, and other committees to which these claims are presented to resist those that ought to be resisted and to keep a record of the various claims, it would be of great assistance to the committees. It is out of the question to try these cases by individual members of the committees as they come up and to do justice to all of them.

I think the Committee on Claims and the Committee on Indian Affairs, who have jurisdiction of most of these claims, are as laborious, as attentive, and as hard working as those committees have ever been in my recollection, but the amount of work has grown so enormously that they do need assistance; and I hope that the Senate will come to the conclusion to give it, if not at this session of Congress, in the near future.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

The bill was passed.

The PRESIDENT pro tempore. The bill (S. 4074) for the relief of Thierman & Frost, on the same subject, will be indefinitely postponed, if there be no objection. The Chair hears no objection, and that order is made.

BILLS INTRODUCED.

Mr. FAIRBANKS introduced a bill (S. 6058) granting an increase of pension to Edwin D. York; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PLATT of Connecticut introduced a bill (S. 6059) for the relief of certain enlisted men of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. McCUMBER introduced a bill (S. 6060) granting an increase of pension to Charles Stermer; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. MARTIN introduced a bill (S. 6061) for the erection of a monument to the memory of Matthew Fontaine Maury, of Virginia; which was read twice by its title, and referred to the Committee on the Library.

Mr. MONEY introduced a bill (S. 6062) granting an increase of pension to James D. Stewart; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. SPOONER introduced a bill (S. 6063) granting an increase of pension to Orson Nickerson; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6064) granting an increase of pension to Rinaldo M. Griswold; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. MASON introduced a bill (S. 6065) granting a condemned cannon to the Union Veterans' Union; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PERKINS introduced a bill (S. 6066) granting a pension to Edward Straub; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SCOTT introduced a bill (S. 6067) for the relief of Sarah A. Sutton; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 6068) for the relief of Richard Riggles; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. KEARNS introduced a bill (S. 6069) granting a pension to Isaac D. Gregg; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURTON introduced a bill (S. 6070) to authorize the construction of a bridge across the Missouri River, at a point to be selected, within 5 miles north of the Kaw River, in Wyandotte County, State of Kansas, and Clay County, State of Missouri, and to make the same a post route; which was read twice by its title, and referred to the Committee on Commerce.

LEROY A. LIVELY.

On motion of Mr. ELKINS, it was

Ordered, That the papers on file in the office of the Secretary of the Senate in connection with a bill (S. 2435, Fifty-sixth Congress, first session) granting a pension to Leroy A. Lively be withdrawn in accordance with clause 1, Rule XXX, of the rules of the Senate.

SUITS IN TARIFF CASES.

Mr. JONES of Arkansas submitted the following resolution; which was referred to the Committee on Finance:

Resolved, That the Secretary of the Treasury and the Attorney-General are, respectively, directed to inform the Senate—

1. Whether the United States Government has abandoned its petition before the Supreme Court of the United States for a writ of certiorari in the case of the United States *v.* Roessler et al. (79 Fed. Report, 313), involving the question of the time when the chief use of imported articles is to be determined.

2. Whether the United States Government has abandoned its petition before the Supreme Court of the United States for a writ of certiorari in the case of Meyer *v.* Cadwalader, involving the duty on hat trimmings under the tariff act of 1883, in which case the verdict of a jury in favor of the Government was overthrown on October 17, 1898, by the United States court of appeals for the third circuit.

3. If either of said petitions have been abandoned, that the Senate be informed why they were so abandoned, and if upon agreement with importers, that a copy of the agreement be sent to the Senate.

4. If any such agreement has been made with importers, whether or not such agreements involved refunds of duty on piece goods, such as velvets, cotton-back satins, and similar goods not commercially known as hat trimmings.

5. Whether any refunds since 1897 have been made or agreed to be made by the Treasury Department on such piece goods as are the subject of litigation in the suit of Meyer *v.* Cadwalader.

6. State the amount of money refunded by the Treasury Department for piece and other goods claimed to be hat trimmings since March 4, 1877.

7. Whether any, and, if any, what amounts of money have been refunded or agreed to be refunded upon such piece goods except in accordance with the verdict of a jury and judgment against the Government thereon, and whether any judgments have been entered against the Government by consent in such cases, and if so, a full statement of such judgments.

8. Whether the question of fact involved in the case of Meyer *v.* Cadwalader—namely, whether piece goods, such as velvets, cotton-back satins, and similar goods not commercially known as hat trimmings are nevertheless hat trimmings under section 448, Schedule N, of the tariff act of 1893—has ever been decided by a jury other than favorably to the Government.

9. Whether any refunds have been made or agreed to be made by the Treasury Department involving four so-called Fleitman suits, Nos. 11402, 12184, 12545, and 16289, in payment of which a Treasury draft for an amount of about $196,000 was issued, but the payment of which was suspended on the order of President Harrison.

ADDITIONAL CLERK TO COMMITTEE ON EDUCATION AND LABOR.

Mr. McCOMAS submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Education and Labor be, and it is hereby, authorized to employ an assistant clerk, to be paid from the miscellaneous items of the contingent fund of the Senate at the rate of $1,440 per annum until otherwise provided for by law.

HEARINGS BEFORE COMMITTEE ON EDUCATION AND LABOR.

Mr. McCOMAS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Education and Labor be given leave to print hearings before that committee.

CIRCUIT COURT OF APPEALS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 312) providing that the circuit court of appeals of the eighth judicial circuit of the United States shall hold at least one term of said court annually in the city of Denver, in the State of Colorado, or in the city of Cheyenne, in the State of Wyoming, on the first Monday in September in each year, and at the city of St. Paul, in the State of Minnesota, on the first Monday in June in each year; which were on page 1, line 10, to strike out "June" and insert "May," and to amend the title so as to read: "A bill (S. 312) providing that the circuit court of appeals of the eighth judicial circuit of the United States shall hold at least one term of said court annually in the city of Denver, in the State of Colorado, or in the city of Cheyenne, in the State of Wyoming, on the first Monday in September in each year, and at the city of St. Paul, in the State of Minnesota, on the first Monday in May in each year."

Mr. CLAPP. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

GEORGE A. ORR.

The PRESIDENT pro tempore laid before the Senate the bill (S. 19) for the relief of George A. Orr, returned by the House of Representatives to the Senate in compliance with its request.

Mr. WARREN. I move that the bill be indefinitely postponed.

The motion was agreed to.

H. B. MATTEOSIAN.

The PRESIDENT pro tempore laid before the Senate the bill (S. 567) for the relief of H. B. Matteosian, returned by the House of Representatives to the Senate in compliance with its request.

Mr. WARREN. I move that that bill be indefinitely postponed.

The motion was agreed to.

ALBERT C. BROWN.

The PRESIDENT pro tempore laid before the Senate the bill (S. 1920) for the relief of Albert C. Brown, returned by the House of Representatives to the Senate in compliance with its request.

Mr. WARREN. I move that that bill be indefinitely postponed.

The motion was agreed to.

ISSUANCE OF DUPLICATE CHECK.

Mr. PLATT of New York. I move that the Senate proceed to the consideration of the bill (S. 679) directing the issue of a check

in lieu of a lost check drawn by Capt. E. O. Fechét, disbursing officer United States Signal Service Corps, in favor of the Bishop Gutta Percha Company.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment, to strike out the preamble and all of the bill after the enacting clause, and in lieu thereof to insert:

That Capt. E. O. Fechét, disbursing officer United States Signal Corps, be, and he is hereby, authorized and instructed to issue to the Bishop Gutta Percha Company a duplicate of an original check issued by said E. O. Fechét on the 29th day of September, 1900, No. 35821, upon the assistant treasurer of the United States at New York, in favor of the said Bishop Gutta Percha Company, for the sum of $2,793, which check is alleged to have been lost in transmission through the clearing house before reaching the said assistant treasurer of the United States at New York: *Provided*, That said duplicate check shall be issued under such regulations in regard to its issue and payment as have been prescribed by the Secretary of the Treasury for the issue of duplicate checks, under the provisions of section 3646 of the Revised Statutes of the United States, including an adequate bond of indemnity.

Mr. GALLINGER. It is a small matter, but I notice the amendment reported by the committee says "instructed." The usual word is "directed," and I suggest that amendment to the amendment.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 3, line 12, after the words "authorized and," it is proposed to strike out "instructed" and insert "directed;" so as to read:

That Capt. E. O. Fechét, disbursing officer United States Signal Corps, be, and he is hereby, authorized and directed to issue to the Bishop Gutta Percha Company, etc.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was rejected.

KATHARINE RAINS PAUL.

Mr. GALLINGER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 11249) granting an increase of pension to Katharine Rains Paul, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

J. H. GALLINGER,
J. C. PRITCHARD,
Managers on the part of the Senate.

H. C. LOUDENSLAGER,
J. H. BROMWELL,
WILLIAM RICHARDSON,
Managers on the part of the House.

The report was agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Commerce:

A bill (H. R. 1992) granting the right of way to the Alafia, Manatee and Gulf Coast Railway Company through the United States light-house and military reservations on Gasparilla Island, in the State of Florida;

A bill (H. R. 12085) providing for the completion of a light and fog-signal station in the Patapsco River, Maryland; and

A bill (H. R. 14051) granting the consent of Congress to N. F. Thompson and associates to erect a dam and construct power station at Muscle Shoals, Alabama.

STATEMENTS BY FILIPINOS.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying paper, referred to the Committee on the Philippines:

To the Senate of the United States:

In response to the resolution of the Senate of the 27th ultimo, as follows:

"*Resolved*, That the President be requested, if not, in his opinion, incompatible with the public interest, to inform the Senate whether there be any law or regulation in force in the Philippine Islands which will prevent any native of those islands who may so desire, not under arrest and against whom no charge of any offense against the United States is pending, from coming to the United States and stating his views or desires as to the interest of his people to the President or either House of Congress."

I transmit herewith a report of the Secretary of War, dated May 29, 1902.

THEODORE ROOSEVELT.

WHITE HOUSE, *June 4, 1902.*

MILITARY ACADEMY APPROPRIATION BILL.

Mr. WARREN. I move that the Senate proceed to the consideration of the bill (H. R. 13676) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1903, and for other purposes.

The motion was agreed to.

Mr. STEWART. Will the Senator from Wyoming allow me to make a request?

The PRESIDENT pro tempore. Does the Senator from Wyoming yield to the Senator from Nevada?

Mr. WARREN. I yield to the Senator.

AGREEMENTS WITH CHOCTAWS AND CHICKASAWS.

Mr. STEWART. There are two important treaties on the Calendar with the Choctaws and the Chickasaws. The Interior Department is very anxious that those treaties shall be acted upon at an early date, and I ask unanimous consent that when the Military Academy appropriation bill shall have been completed they may be taken up and considered.

The PRESIDENT pro tempore. The unfinished business will then take its place.

Mr. STEWART. I know that will take precedence whenever the time for its consideration comes.

The PRESIDENT pro tempore. The Chair suggests to the Senator from Nevada that he withhold his request until the pending bill is disposed of.

Mr. STEWART. Very well.

Mr. STEWART subsequently said: I desire to give notice that to-morrow morning, immediately after the morning business, I I will call up the Indian treaties.

Mr. MONEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wyoming yield to the Senator from Mississippi?

Mr. WARREN. I yield to the Senator from Mississippi, who, I understand, only wishes to occupy a few moments.

MONROE DOCTRINE.

Mr. MONEY. The senior Senator from Louisiana [Mr. MCENERY] has just handed me a copy of the New Orleans Picayune of the 1st of June, which contains some extracts from a speech delivered in this Chamber by the senior Senator from Massachusetts [Mr. HOAR]. I did not have the pleasure of hearing that speech or of having read it, but I have heard it very highly praised by those who assented to it and those who dissented from it. Its scholarship and its eloquence have been praised all over the Union.

The senior Senator from Massachusetts is a great authority upon all historical matters, and not only an authority, but he is a great stickler for the truth of history, and it is on that account particularly that I myself, being interested in the truth of history, beg the indulgence of the Senate for a few moments to call attention to one paragraph which I wish to briefly animadvert upon. In the course of his remarks the Senator from Massachusetts said:

John Quincy Adams, as everybody knows, was the father of what we call the Monroe doctrine. He secured its adoption through the weight of his great influence by a hesitating President and a reluctant Cabinet. It is not so well known that he placed the Monroe doctrine solely upon the doctrine that just governments must rest upon the consent of the governed. That he declared to be its only foundation, and that, so founded, it rested upon the eternal principle of righteousness and justice.

Mr. President, without having had an opportunity to consult any work, but quoting simply from recollection, I will say that Thomas Jefferson long before that time, a quarter of a century before, had announced what was afterwards called the Monroe doctrine, which was subsequently announced in the message of Mr. Monroe in 1821, December 23. So that doctrine does not owe its paternity to John Quincy Adams, but it was the result of a conference between George Canning, the British premier, and Dr. Rush, our envoy near the Court of St. James.

The occasion which caused that conference was the fact that what was known as the Holy Alliance, having completed the work of subduing in Piedmont and in Spain those who had revolted against monarchical rule, and having declared that no reform in government could come except through those who reigned by divine right, then announced their intention to send fleets and armies to the New World and to reduce the revolting Spanish colonies to subjection. In that emergency Mr. Canning, who feared for the British trade in South America or a trade which he desired to create there, for really none existed, called upon the American minister and laid before him these plans of the Holy Alliance. The King of England, or the Regent, I believe it was then, had no one present at the conferences of the Holy Alliance to represent him in person, for the reason that the British King can do nothing and can act only through a responsible ministry, but he did send a person there to represent him in the capacity of looker-on and reporter.

When Mr. Canning made this disclosure to Dr. Rush he was also requested to transmit the news to Monroe and his Cabinet and to recommend that America protest against such an invasion of the Western Hemisphere for the purpose, on the part of the Holy Alliance, of reducing the free republics of Spanish America to the yoke of Ferdinand the Seventh.

Rush's dispatch was received and the "doctrine" embodied in a message to Congress and sent to Mr. Jefferson for his criticism and approval. Jefferson kept the paper six weeks, gave it his

cordial approval, and transmitted it, without leave of anybody, so far as I know, to Mr. Madison, who, after a short while, returned it with his approval.

In the meanwhile, however, before the date of declaration of the so-called Monroe doctrine, Mr. George Canning found it necessary to check the active energies of the Holy Alliance that were being exerted in preparation for the conquest which they had designed by informing the French ambassador near the Court of St. James that the moment such an expedition was set on foot or such an attempt was avowed openly, Great Britain would acknowledge the independence of the South American Republics and would interfere in behalf of her own trade, and that action stopped any further purpose on the part of the Holy Alliance to invade Spanish America.

In the meantime, however, this declaration of what is called the Monroe doctrine remained with the Cabinet. It was not the work of Mr. John Quincy Adams in any sense whatever, except the latter part of it. The Monroe doctrine, as the Senate well knows, is divided into two sections. One declares that any European power, in concert with the Holy Alliance, in an attempt to extend its influence over or to put under its subjection any portion of American territory would be considered as acting in an unfriendly way toward the United States; which meant, of course, that there would be armed intervention to prevent its purpose being effected.

Now, the latter part of it was a declaration that there was now no part in all the country of the Western Hemisphere subject to colonization by any European power. That part was written by John Quincy Adams and was not submitted to the Cabinet until it was called upon to decide the whole question. Mr. Monroe had never been reluctant as to the first part nor had his Cabinet been reluctant or hesitating. They had been awaiting the transmission of the paper to Mr. Jefferson and its return. But upon the second part, upon which they had no information whatever and which they had never discussed, they did hesitate. They hesitated so much that it passed without their affirmative support. Mr. Calhoun, who had been Secretary of War, twice declared in this Chamber in the debate upon the question of the military occupation of Yucatan and in the case of the Oregon question that the second part, concerning colonization, was the work of Mr. Adams and was not fully considered. It was written by Mr. Adams without consultation with any member of the Cabinet.

There were at that time only two nations in Europe attempting in any way to colonize any part of the Western Hemisphere, and they were Great Britain and Russia. At that time Russia extended her pretensions down to Monterey, Cal., and had forts along the Pacific coast down that far. Great Britain was claiming sovereignty to certain parts of the country now known as British Columbia and the State of Washington. We had occupied Oregon, and our right was admitted. There was a modus vivendi subsisting between the Government of Great Britain and the United States Government for a mutual occupation for purposes of trade, no post to be made or occupied by the troops until settlement should be made by diplomatic negotiations.

From the dispute as to the line arose the slogan of "fifty-four-forty or fight," of which President Polk was the author, and from which he very gracefully receded, because we did not fight and we did not get fifty-four-forty.

The negotiation delimited the frontier as it now stands on the mainland, but left to another negotiation as to the true channel, and the Strait of Juan de Fuca was determined upon as the main channel of the sound, to our loss of Vancouver.

Those were the only two nations making any attempt to colonize America at any point, and they very promptly declared to the American Government that they would not pay the slightest attention to that part of the celebrated message of Mr. Monroe, and they did not. It has been a dead letter from the time it was passed in the Cabinet until to-day. It has had no effect whatever.

Now, as to the Monroe doctrine itself, which has been so much misunderstood or misrepresented, it did not attempt to say that the United States would resist by its force any attempt made by any foreign nation whatever, whether republic, monarchy, or empire, to establish a sphere of influence or to seize upon land or to upset the government of any Spanish-American State. That was the significance placed upon that instrument by South American States.

So the Pan-American Congress was called by a number of the leading States of the South, especially Mexico and Colombia. It met at its first session at Panama. We were invited to send representatives. A man named Anderson was appointed from Kentucky, and a man from New Jersey was appointed, whose name I have forgotten for the moment. Those two men received certain instructions from the Secretary of State, Mr. Henry Clay, John Quincy Adams, the author of this instrument, as it is claimed, then being President of the United States. One of the representatives died in a very short while, and the other never went to Panama at all, which occasioned the failure of the second congress to meet at the City of Mexico, because of the non-attendance of the representatives of the United States.

The instruction was that each one of the Southern States of America was advised to give a similar expression as to their view of the invasion of this continent by any foreign power; and it also stated specifically that the South American States were not to understand that the United States Government had in any way pledged itself to protect them from any invasion whatever. Those are the cold facts of history about this matter. The part that Mr. Adams played was to put in the declaration, without consultation with the Cabinet until brought up for consideration, that part of the Monroe doctrine which absolutely fell dead by the protests of the two nations at that moment concerned. Russia afterwards withdrew her pretensions to the southern part of her chain of forts.

The modus vivendi was acted upon until our commissioners could negotiate with those of Great Britain, and the delimitation of the frontier between the two countries was made, and it has subsisted until this day. But the first part of the Monroe doctrine, warning the sovereigns of Europe against interfering in American affairs, was originally the idea of Thomas Jefferson, and the cause of the declaration at that time was the communication of George Canning to Dr. Rush of the intention of the Holy Alliance. This is the story as I recollect it, and if I am wrong about it, any man can take the time to consult the authorities and correct me, and I shall be very glad to be corrected.

Mr. WARREN. I ask that we may now proceed with the Military Academy appropriation bill.

Mr. BATE. Will the Senator from Wyoming allow me to say a word upon the matter which has just been discussed?

Mr. WARREN. I wish to be entirely courteous, but there are only a few moments remaining until 2 o'clock. However, I yield to the Senator.

Mr. BATE. Mr. President, I was very much interested in the statement of the Senator from Mississippi [Mr. MONEY] who has just taken his seat in regard to the history of the Monroe doctrine, and his presentation of it is the view I have had of it; but I wish to say one word additional. When the Senator from Mississippi says the Monroe doctrine has been a "dead letter" I think he is mistaken. He overlooks at least one important historic instance in modern history which occurs to my mind in this connection. After or about the time of the close of the civil war, it will be remembered as part of history, when Maximilian had invaded Mexico and, after a severe battle, he was captured, tried, and condemned to be executed, an appeal was made by the very highest authorities to the Government of the United States to intercede in behalf of Maximilian and save his life. The petition was referred to the Secretary of State, Mr. Seward. The Secretary of State, Mr. Seward, declined to interfere, and Maximilian was shot to death while a prisoner of war. It was a part of the current history of that time that Mr. Seward gave as the reason for not responding favorably to this call of mercy that Maximilian's course was in flagrant violation of the Monroe doctrine and he could not afford to do it, and declined it on the high grounds that it would be a bad precedent and weaken the force and sanctity of the Monroe doctrine. So Maximilian was executed, when a word from the Secretary might possibly have saved him.

Mr. MONEY. I should like to have one moment more, if the Senator from Wyoming will yield to me. It is merely to correct a statement.

Mr. WARREN. I desire to be entirely courteous, but I do not like to have a moot question taken up at the expense of a living question. It is only thirty minutes until the canal bill will be taken up.

Mr. MONEY. I desire only one moment, to set right my friend the Senator from Tennessee. The Senator from Wyoming is perfectly aware that I could occupy the time on his bill, but I do not care to do that.

Mr. WARREN. I yield to the Senator from Mississippi.

Mr. MONEY. Mr. President, the Senator from Tennessee is mistaken in saying that I said the Monroe doctrine was a dead letter. I said that part of it was a dead letter which is peculiarly the acknowledged work of John Quincy Adams.

Mr. BATE. I stand corrected.

MILITARY ACADEMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 13676) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1903, and for other purposes, which had been reported from the Committee on Military Affairs with amendments.

Mr. WARREN. I ask unanimous consent that the first formal reading of the bill be dispensed with, that the bill be read for amendment, and that the committee amendments be first acted upon.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Wyoming? The Chair hears none, and that course will be pursued.

The Secretary proceeded to read the bill. The first amendment of the Committee on Military Affairs was, under the subhead "Permanent establishment," on page 2, after line 18, to insert:

Provided further, That hereafter the actual and necessary traveling expenses of candidates while proceeding from their homes to the Military Academy for qualification as cadets shall, if admitted, be credited to their accounts and paid after admission from the appropriation for the transportation of the Army and its supplies: *And provided further*, That the number of cadets authorized to be appointed by the President from the United States at large shall be 10 per annum, but the total number of cadets at large at the Military Academy at any one time shall not exceed 40.

The amendment was agreed to.

The next amendment was, on page 4, line 1, before the word "engineering," to insert "military;" so as to make the clause read:

For pay of five senior instructors of cavalry, artillery, and infantry tactics, ordnance and gunnery, and practical military engineering (captains), in addition to pay as first lieutenants, not mounted, $2,500.

The amendment was agreed to.

The next amendment was, on page 10, line 5, after the word "day," to insert "$469.50;" so as to make the clause read:

For extra pay of three enlisted men as clerks in the office of the quartermaster, United States Military Academy, at 50 cents each per day, $469.50.

The amendment was agreed to.

The next amendment was, on page 22, in lines 3, 4, and 5, and in lines 10 and 11, to strike out the quotation marks where they occur.

The amendment was agreed to.

The next amendment was, under the subhead "Miscellaneous items and incidental expenses," on page 24, line 12, after the word "machines," to insert "athletic supplies;" so as to make the clause read:

Gymnasium and athletic supplies: For repairs, new machines, athletic supplies, and fixtures for gymnasium, $1,500.

The amendment was agreed to.

The next amendment was, on page 25, line 9, before the word "suitable," to strike out "Welsbach burner or other;" so as to make the clause read:

For purchase of suitable incandescent lights, droplights, tubing, mantles, etc., $20.

The amendment was agreed to.

The next amendment was, on page 26, line 10, under the subhead "For waterworks," after the word "gauges," to strike out "(at Round Pond and Delafield Pond);" so as to read:

For gauges and for stairs for access to same, and all other necessary work of maintenance and repairs, etc.

The amendment was agreed to.

The next amendment was, on page 26, in lines 16 and 17, to strike out the parentheses.

The amendment was agreed to.

The next amendment was, on page 27, line 14, before the word "suitable," to strike out "Welsbach burners or other;" so as to make the clause read:

For purchase of suitable incandescent lights, droplights, mantles, tubes, etc., $40.

The amendment was agreed to.

The next amendment was, on page 29, line 20, after the word "therewith," to insert "and to provide for an increased water supply at a cost not to exceed $100,000;" on page 30, line 2, after the word "supply," to insert "to install a heating and lighting plant," and in line 8, before the word "million," to strike out "five" and insert "six;" so as to read:

To increase the efficiency of the United States Military Academy at West Point, N. Y., and to provide for the enlargement of buildings and for other necessary works of improvement in connection therewith, and to provide for an increased water supply at a cost not to exceed $100,000, made necessary by the increased number of cadets now authorized by law, immediately available and to remain so until expended, $2,000,000: *Provided*, That before any part of this amount is expended, except so much as may be necessary to provide an immediate increased water supply; to install a heating and lighting plant, and to complete the improvements begun on the cadet mess building, complete plans shall be prepared and approved by the Secretary of War, covering all necessary buildings and improvements at West Point, and for each and every purpose connected therewith, which plans shall involve a total expenditure of not more than $6,500,000, including the sum herein appropriated.

The amendment was agreed to.

The next amendment was, on page 30, line 16, after the word "further," to strike out:

That no money shall be expended or obligation incurred for supervising architects after the plans for improvements above provided for have been approved by the Secretary of War.

And to insert:

That the Secretary of War is hereby authorized to employ, in his discretion, a consulting architect, during the preparation of plans and the construction of buildings, at a compensation not exceeding $5,000 per annum: *And provided further*, That the Secretary of War be, and he hereby is, authorized, in his discretion, to purchase for the use of the United States all that tract of land lying east of the easterly bank of the Hudson River and west of the westerly line or side of the New York Central and Hudson River Railroad Company land, situate in the State of New York, formerly known as East Point and now commonly known as Constitution Island, lying opposite to the West Point Military Reservation, at and for such sum as he may deem reasonable, and the said sum so agreed upon is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purchase of said land: *Provided*, That no part of said sum shall be expended for said tract of land until a valid title to said land shall be vested in the United States free from all incumbrances nor until the State of New York shall cede to the United States exclusive jurisdiction over the same, during the time the United States shall be or remain the owner thereof, for all purposes except the administration of the criminal laws of said State and the service of civil process therein.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. BATE. Has the Senator from Wyoming any amendments to offer?

Mr. WARREN. The amendments of the committee have been completed.

Mr. BATE. Some were passed over without objection. If they are to be considered now, all right.

Mr. WARREN. I understand that all the amendments have been agreed to.

Mr. BATE. The main amendment was acted upon?

Mr. WARREN. Yes.

Mr. BATE addressed the Senate. After having spoken five minutes,

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The Senator from Tennessee will kindly suspend. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans.

Mr. MORGAN. Mr. President——

Mr. WARREN. I ask the Senator from Alabama if it would be agreeable to him to lay aside the regular business for a few moments until we finish the pending measure.

Mr. MORGAN. How long does the Senator from Wyoming think it would require?

Mr. WARREN. Not many minutes, I think.

Mr. BATE. We are going to have a yea-and-nay vote on it.

Mr. WARREN. That will not take long.

Mr. BATE. I think it will. Still, I will not object.

Mr. MORGAN. Is the Senator from Tennessee going to ask for a yea-and-nay vote?

Mr. BATE. Yes.

Mr. WARREN. I suggest that we proceed with the appropriation bill, and we will not trespass upon the good nature of the Senator from Alabama. If it becomes tiresome at any time he can, of course, demand the regular order.

Mr. MORGAN. The Senator sees the condition of the Senate now. I do not want to disturb the repose of anybody so far as I am concerned. It would be, I suppose, quite convenient to take up the Military Academy bill to-morrow, as it will have the right of way at any time.

The PRESIDING OFFICER. Does the Senator from Wyoming make a request that the unfinished business be informally laid aside?

Mr. WARREN. Of course, I would very much prefer to go on with it, as other matters are pressing, but I will not insist against the wish of the Senator from Tennessee.

Mr. BATE. It is immaterial to me whether the bill goes over or not. I will have the floor in the morning, I suppose, when the bill is taken up.

Mr. President, I do not agree with the action of the majority of our Committee on Military Affairs, of which I am a member, touching the appropriation of $6,500,000 for the enlargement and improvement of buildings at West Point. This bill came from the House pretty much as it was reported to the Senate, with some increases, and especially an increase on our part of $1,000,000 in that appropriation.

I suppose, Mr. President, there has not been in the history of the Senate any such proposition as is made here now, so bold and so remarkable, that there should be appropriated by the Government of the United States six and one-half million dollars for the purpose of enlarging the plant at the National Military Academy. Such a proposition is unheard of, so far as I know. That Academy has been kept up and taken care of heretofore annually by comparatively small amounts, varying from some $400,000 up to $772,000. I beg to read what it has cost the Government for the last ten years. The figures are taken from the record.

In 1893 the expense of that Academy was $428,917.30; in 1894 it was $432,556.12; in 1895 it was $406,535.08, less than the two preceding years $25,000; in 1896 it was $464,261.66, an increase there, you see, a little; in 1897 it was $449,525.61; in 1898, when the Spanish war began, it will be remembered, it was $479,572.83; in 1899 it was $458,689.23; in 1900 it was $575,774.47; in 1901, last

year, it was $674,306.67; and this year, 1902, up to the last of this month the amount will be $772,653.68 for the ensuing fiscal year.

There has been, Mr. President, an annual increase of a very small amount comparatively in the expenditures of this institution, and the appropriations have conformed to it. I do not know that there has been in any one of those years a deficiency of appropriation for conducting properly the Academy and for keeping in good condition its houses, grounds, and all appurtenances of whatever kind.

Now, however, it seems, for some reason not satisfactory to all of us, we are to have a change in West Point, and with that view the House passed this bill and sent it here in practically its present shape. The bill, with the amendments made on the part of the Senate, increases the amount which has been heretofore given annually for this institution. Many of the various items of expenditure are increased. They have been gone over with great particularity in the Senate committee as well as the House committee, and all the items of expenses that are necessary have been amply provided for; and to that I make no objection. I do not object to a liberal appropriation to this Academy for everything that is necessary for the comfort and convenience of professor and cadet and for every facility to educational advancement or for its improvement and enlargement in an economical and practical manner.

But, Mr. President, I enter my protest against the item appropriating six and one-half million dollars for the purpose of building up this institution to a much greater extent than is needed.

ISTHMIAN CANAL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans.

Mr. MORGAN. Mr. President, I will ask for the reading of the bill and also of the substitute that has been brought in by the minority of the committee.

The PRESIDING OFFICER. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That the President of the United States be, and is hereby, authorized to acquire from the States of Costa Rica and Nicaragua, for and in behalf of the United States, control of such portion of territory now belonging to Costa Rica and Nicaragua as may be desirable and necessary on which to excavate, construct, and protect a canal of such depth and capacity as will be sufficient for the movements of ships of the greatest tonnage and draft now in use, from a point near Greytown, on the Caribbean Sea, via Lake Nicaragua, to Brito, on the Pacific Ocean; and such sum as may be necessary to secure such control is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. That when the President has secured full control over the territory in section 1 referred to he shall direct the Secretary of War to excavate and construct a canal and waterway from a point on the shore of the Caribbean Sea, near Greytown, by way of Lake Nicaragua, to a point near Brito, on the Pacific Ocean. Such canal shall be of sufficient capacity and depth as that it may be used by vessels of the largest tonnage and greatest draft now in use, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing from Greytown to Brito; and the Secretary of War shall also construct such safe and commodious harbors at the termini of said canal, and such provisions for defense, as may be necessary for the safety and protection of said canal and harbors.

SEC. 3. That the President shall cause such surveys as may be necessary for said canal and harbors, and in the constructing of the same may employ such persons as he may deem necessary.

SEC. 4. That in the excavation and construction of said canal the San Juan River and Lake Nicaragua, or such parts of each as may be made available, shall be used.

SEC. 5. That in any negotiations with the States of Costa Rica or Nicaragua the President may have, the President is authorized to guarantee to said States the use of said canal and harbors, upon such terms as may be agreed upon, for all vessels owned by said States or by citizens thereof.

SEC. 6. That the sum of $10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, toward the project herein contemplated; and the Secretary of War is, further, hereby authorized to enter into a contract or contracts for materials and work that may be deemed necessary for the proper excavation, construction, defense, and completion of said canal, harbors, and defenses, to be paid for as appropriations may from time to time be hereafter made, on warrants to be drawn by the President of the United States, not to exceed in the aggregate $180,000,000.

The PRESIDING OFFICER. The proposed substitute will now be read.

Mr. MORGAN. I ask for the reading also of the substitute submitted by the minority of the committee.

The PRESIDING OFFICER. The Chair has directed that that be read.

Mr. MORGAN. It is the understanding that it is now offered.

The SECRETARY. It is proposed to strike out all after the enacting clause and insert:

That the President of the United States is hereby authorized to acquire, for and on behalf of the United States, at a cost not exceeding $40,000,000, the rights, concessions, grants of land, right of way, unfinished work, plants, and all maps, plans, drawings, records, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama and in Paris, including 68,863 shares of the Panama Railroad Company, owned by said canal company, provided a satisfactory title to said property can be obtained.

SEC. 2. That the President is hereby authorized to acquire from the Republic of Colombia, for and on behalf of the United States, upon such terms as he may deem reasonable, control in perpetuity of a strip of land, the territory of the Republic of Colombia, 10 miles in width, extending from the Caribbean Sea to the Pacific Ocean, and the right to use and dispose of the waters thereon, and to excavate, construct, and to perpetually maintain, operate, and protect thereon a canal, of such depth and capacity as will afford convenient passage of ships of the greatest tonnage and draft now in use, from the Caribbean Sea to the Pacific Ocean, which control shall include the right to perpetually maintain and operate the Panama Railroad, if the ownership thereof, or a controlling interest therein, shall have been acquired by the United States, and also jurisdiction over said strip and the ports at the ends thereof to make such police and sanitary rules and regulations as shall be necessary to preserve order and preserve the public health thereon, and to establish such judicial tribunals thereon as may be necessary to enforce such rules and regulations.

The President may acquire such additional territory and rights from Colombia as in his judgment will facilitate the general purpose hereof.

And such sum of money as may be necessary to carry out the provisions of this section is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid on warrants drawn by the President.

SEC. 3. That when the President shall have obtained a satisfactory title to the property of the New Panama Canal Company, as provided in section 1 hereof, and the control of the necessary territory from the Republic of Colombia, as provided in section 2 hereof, he is authorized to pay for the property of the New Panama Canal Company $40,000,000 and to the Republic of Colombia such sum as shall have been agreed upon, and a sum sufficient for both said purposes is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid on a warrant drawn by the President.

The President shall then direct the Secretary of War to cause to be excavated, constructed, and completed, utilizing to that end as far as practicable the work heretofore done by the New Panama Canal Company, of France, and its predecessor company, a ship canal from the Caribbean Sea to the Pacific Ocean. Such canal shall be of sufficient capacity and depth as shall afford convenient passage for vessels of the largest tonnage and greatest draft now in use, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing through the same from ocean to ocean; and the Secretary of War shall also cause to be constructed such safe and commodious harbors at the termini of said canal, and make such provisions for defense as may be necessary for the safety and protection of said canal and harbors. That the President is authorized for the purposes aforesaid to employ such persons as he may deem necessary, and to fix their compensation.

SEC. 4. That should the President be unable to obtain for the United States a satisfactory title to the property of the New Panama Canal Company and such control of the necessary territory of the Republic of Colombia, mentioned in sections 1 and 2 of this act, within a reasonable time and upon reasonable terms, then the President, having first obtained for the United States similar control of the necessary territory from Costa Rica and Nicaragua, upon terms which he may consider reasonable, for the construction, maintenance, operation, and protection of a canal connecting the Caribbean Sea with the Pacific Ocean by what is commonly known as the Nicaragua route, shall direct the Secretary of War to excavate and construct a ship canal and waterway from a point on the shore of the Caribbean Sea near Greytown, by way of Lake Nicaragua, to a point near Brito on the Pacific Ocean. Said canal shall be of sufficient capacity and depth to afford convenient passage for vessels of the largest tonnage and greatest draft now in use, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing through the same from Greytown to Brito; and the Secretary of War shall also construct such safe and commodious harbors at the termini of said canal as shall be necessary for the safe and convenient use thereof, and shall make such provisions for defense as may be necessary for the safety and protection of said harbors and canal.

The President shall cause such surveys as may be necessary for said canal and harbors to be made, and in making such surveys and in the construction of said canal may employ such persons as he may deem necessary, and may fix their compensation.

In the excavation and construction of said canal the San Juan River and Lake Nicaragua, or such parts of each as may be made available, shall be used.

SEC. 5. That the sum of $10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, toward the project herein contemplated.

And the Secretary of War is hereby authorized to enter into such contract or contracts as may be deemed necessary for the proper excavation, construction, completion, and defense of said canal, harbors, and defenses, by the route finally determined upon under the provisions of this act. Appropriations therefor may from time to time be hereafter made, not to exceed in the aggregate $135,000,000 should the Panama route be adopted, or $180,000,000 should the Nicaragua route be adopted.

SEC. 6. That in any agreement with the Republic of Colombia, or with the States of Nicaragua and Costa Rica, the President is authorized to guarantee to said Republic or to said States the use of said canal and harbors, upon such terms as may be agreed upon, for all vessels owned by said States or by citizens thereof.

Mr. MORGAN. Mr. President, the question in this case is upon the adoption of the amendment offered by the subcommittee as a substitute for the bill. It seems that the discussion in this case is likely to be a wide one. So I hope the issues will be so narrowed down as that there will not be a very great amount of time consumed on either side in the discussion of the measure.

Mr. President, I do not care to approach the discussion of this important measure in a cloud of volcanic smoke and ashes which the opponents of the measure outside of the Senate have brought as a funeral pall to place over its bier, and I think it proper that I should try to clear the atmosphere and to quiet the apprehensions of the minority of the committee, if I can, so that we can proceed without undue agitation to consider the merits of the bill with sober and careful solicitude for the welfare of the country.

It is true that while the minority of the committee seem to be in despair as to the fate of Nicaragua and Costa Rica, and their report shuts them out from all hope of being visited even by people of ordinary prudence, the minority of the committee have not closed forever the gateway between the oceans to the hopes of our people by prophecies of destruction by volcanoes and earthquakes; for in the same report they say: "The general points which now have been settled are these:

"First there must be a canal across the American isthmus." Which means, of course, volcanoes and earthquakes to the contrary notwithstanding. That stalwart and patriotic edict will

be obeyed, of course, and will be accomplished. It nearly fills the measure of my hopes to the brim, for it is a canal and not a particular route for which I have tried to work "in season and out of season" for many years, and all I have asked is a fair opportunity to express my choice of routes.

The part of the report of the minority that treats of volcanoes and earthquakes is so somber and threatening in its statements as to the awful danger of such disturbances that I was dismayed when I first read it, and I wondered how the minority could so heroically declare that "First there must be a canal across the American Isthmus." On further examination I saw that the minority have found a "hole in the sky" through which they have discovered that earthquakes and volcanoes can not ever disturb Panama and that all we have to do to get a canal is to pay the Panama Canal Company $40,000,000 for the privilege of constructing a canal at that heaven-favored location, and abandon the discussion as to the choice of routes.

When the committee closed its hearings, Mount Pelee was in slumberous repose. When, on the 7th of May, it went into convulsions that would alarm the occupants of Dante's inferno, the committee could not summon some bright intelligence from the courts of heaven to inform us where the next blow would fall, and felt that it was at least respectful, if not wise, to wait to be informed through the usual channels.

The minority of the committee, it seems, have gone deeply into the inquiry and have probed the subject to the bottom through a learned but very general disquisition of Mr. Heilprin and some alleged facts and searchlight reflections of the New York Sun. These are the only two authorities the committee quote.

The committee in its reports has made no suggestion that the Panama route is unsafe and should be abandoned on account of volcanoes, although they were aware that such opinions were entertained by some scientific people. They have forborne to make such an attack on Panama because it would tend to discourage the opening of a canal in any part of the isthmian region, all of which is involved in the same possibility of danger as to the operation of a canal without temporary disturbances. The committee does not regard such a danger as being either probable or serious, and made no special investigation of the subject in their investigations.

All the bills before them propose to construct a canal on some route, and the committee was not aware that objections would be made to the construction of an isthmian canal on any proposed route because of the danger of earthquakes and volcanoes.

In the report of the minority there is a disparagement of the Nicaragua route as being unsafe on account of alleged seismic disturbances, some of recent date.

If all that is said and conjectured or surmised about volcanoes and earthquakes is to be reckoned against Nicaragua, that is a very unsafe region for a canal; and if all that is said, surmised, and established about earthquakes and volcanoes in Panama is to be reckoned against that route, it is doubly unsafe for a canal or a railroad. But there is no ground for apprehension in either case that does not apply equally to many places in the United States.

From Alaska to the Antarctic Sea along the entire coast of the Western Hemisphere and from Salvador to Tierra del Fuego—"the land of fire"—earthquakes connected with volcanoes and earthquakes not apparently connected with them have shaken the earth through all the historic and prehistoric ages.

The whole mountain system of the Western Hemisphere, extending along both coasts, has been lifted above the waters by such convulsions, and the old craters of volcanoes, that are ranged behind the great plains formed of their ashes, mark the mountains and foothill regions with the evidences of their violence.

The surface of the earth seems to be approaching final completion in its structure, through such agencies, and is getting in better control of its titanic forces.

If I were a prophet, as some Senators are assuming to be, I would prefer to be a prophet of good, instead of a prophet of evil, and to foretell that Mount Pelee and the Soufriere would expend their forces and cease to do evil; and I would point to the fact that they have not disturbed the Isthmus at Colon, which is nearer to them than they are to Cuba or to Greytown, through any sympathy with their agitation, and that the recent great and disastrous earthquake in Guatemala has not made a ripple on the surface of Lake Nicaragua,

I would cite these facts and the violent earthquakes in Mexico during last January as proofs that there is not now any apparent connection between such disturbances in Mexico, Guatemala, and the islands of West Indies, whatever connection may have existed formerly. I would also cite the following facts. collected and published by the French Meteorological Association in 1858, to show that no such connection has ever existed within historic periods.

This learned association published a list of earthquakes in the West Indies that have been examined by scientists, and they give a statement of each important convulsion, with the date of its occurence, on each day, month, and year, since 1530 down to 1858.

The number of earthquakes in these islands, at large, during this period of nearly four centuries, is 915, or more than 200 in each century, and more than 2 in each year, distributed through 25 islands of the West Indies, from Cuba to Trinidad.

Some of these convulsions, but only a small fraction of them, have been connected with volcanic disturbances. They have been independent, lateral movements in the crust of the earth.

They have extended to and along the Atlantic coast of North America, in some instances causing serious disturbances at Quebec and in Vermont and Connecticut, and dangerous and destructive convulsions at New Madrid, Mo., in 1812, and later in the islands along the coast of Mississippi, and yet more recently at Charleston, S. C., which has received several unpleasant visitations.

That there is no recorded instance of any sympathy between these 915 earthquakes and any part of Central America should quiet the fears of Panama that Mount Pelee, at Martinique, and the Soufriere, at St. Vincent Island, will cause the disasters of September 7, 1882, to be repeated there.

As to Nicaragua, it has escaped any sensible impression from the earthquake in Guatemala, or from the volcanoes of the islands of the West Indies. There has been no earthquake at Martinique, St. Vincent, or elsewhere in the West Indies during the present volcanic disturbance, and the theory is confidently asserted by scientists that the volcanoes are the fissures through which confined gases escape vertically, and are the only real protection against earthquakes, which generally move laterally and dislocate the geological strata from their bearings.

In the older formations from California to Chile, along the whole coast of the Pacific, the seismic disturbances are becoming more infrequent and less in violence. That coast, as a rule, is an older formation than the islands of the West Indies.

Under such circumstances, is our courage to collapse and are we to abandon the hope of a canal across the Isthmus, because we fear earthquakes and volcanoes?

The great bridges across the Mississippi at Memphis and St. Louis would not have been built, with the earthquake region of New Madrid between them, if our great engineers—Eads and Noble—had been as fearful as the friends of Panama are with reference to the Nicaragua Canal. They did not find a hole in the sky to reveal to them the safety of either location for a bridge.

If we are to stop our great national work until coming decades and eras are to put a quietus on the apprehended seismic disturbances, the United States had better throw up the sponge and quit talking about a canal.

If we must have a battle of earthquakes and volcanoes to determine the choice of routes, I see no escape from the necessity of making a comparison between the violence of the disturbances and their frequency with reference to both these routes, only to show that Panama is not the safest spot in isthmian America.

The latest statement as to the volcanoes in Nicaragua is found in the New York Sun newspaper of date May 30, 1902, as follows:

NEW ORLEANS, *May 28.*

Passengers arriving from Guatemala brought this account of the Nicaragua earthquake and the activity of the Nicaragua volcanoes of Momotombo and Asososca, taken from local newspapers:

A terrific earthquake shock passed over the port of Momotombo, carrying away the Government wharf and dumping into the lake great quantities of coffee, in sacks, and machinery. The bottom seemed to have dropped out of Lake Managua all at once, and the wharf sank down to the bottom. No soundings were taken immediately after the occurrence, and it is not definitely known what changes took place. The Government of Nicaragua has placed the matter in the hands of an engineer for investigation.

On the following night a severe shock passed over the rich old city of Leon and Chinandego, doing some damage to the big buildings. The motion of the earth started all the bells in the city to ringing, which frightened the population to such an extent that they spent hours in the open air.

A passenger on the boat which runs on Lake Managua tells of a terrific volcanic eruption which occurred at the very moment of the earthquake. The steamer was not far from the volcano of Momotombo when, just about noon, a great column of smoke and a great shaft of fire was seen to shoot upward, and a deep, rumbling noise like distant thunder passed over the lake.

From that time on the old volcano, which has never been quiet, continued to shoot columns of smoke miles into the air and to pour a liquid over the side of the mountain. The eruption and earthquake occurred almost at the exact moment.

Reports from Chinandego tell of a party of natives who came into the city from the neighborhood of Asososca volcano. They tell of great flows of red-hot lava which have been running down the sides of the volcano since March 24. This mountain has shown more activity than any of the others. There are few persons living near its base, and there is little danger of a heavy loss of life. Up to the last advices received the volcano was still shooting up its shafts of fire, columns of smoke, and running over with melted lava.

On May 8 and 9 a severe shock of earthquake was felt in the city of Guatemala, but no extensive damage was done.

This is the only proof presented by the minority of the committee as to recent volcanic activity in Nicaragua.

They omitted to add the following additional editorial statement of the New York Sun of the 30th of May, 1892:

DANGER TO THE PANAMA CANAL FROM NICARAGUAN VOLCANOES.

The Hon. JOHN T. MORGAN'S personal guaranty of the benign character and future good behavior of the Nicaragua volcanoes is not worth much

from a business point of view. If on the strength of his insistent advice the United States Government should invest $200,000,000 or more in the neighborhood of Coseguina, Momotombo, Omotepe, and the rest of them, and calamity to the canal should occur, it would be no great satisfaction to remember that Senator MORGAN had personally certified to the safety of this route.

Central American newspapers just received at this office are full of recent doings of these objects of Mr. MORGAN's sublime, if unreasoning, faith. La Democracia, of Managua, and El Iris de la Tarde, of Granada, confirm the accounts which we have received by way of New Orleans as to the destruction wrought by the eruption of Momotombo and the accompanying earthquake, the widespread consternation throughout that region, and the spectacular performance of the volcano which dominates the lake of Managua, a body of water directly linked with Lake Nicaragua itself. The neighboring volcano of Asososca is also reported as having been in continuous eruption since March 24, ejecting torrents of red-hot lava.

These manifestations of fiery activity in the Nicaraguan cordillera occur at a time very inconvenient to Senator MORGAN, and very inopportune for those newspapers which have been either solemnly assuring their readers that all these volcanoes were extinct, or making the question of danger from their outbursts the subject of more or less intelligent jocosity.

As the New York paper had manufactured that statement relating to myself in its editorial comments, for which there is no foundation in the truth, so far as my action is concerned, I felt called upon to get from the diplomatic authorities of Nicaragua a statement as to the truth of what the New York Sun had published, which has been adopted by the minority of the committee as the foundation of its anxious fears for the fate of Nicaragua and its calm confidence in the everlasting tranquillity of Panama.

The Nicaraguan minister, at my request, sent a dispatch by cable to President Zalaya, which, with the answer to it, is as follows:

LEGACION DE NICARAGUA,
Washington, D. C., June 3, 1902.

Hon. JOHN T. MORGAN.

DEAR SENATOR MORGAN: On receipt of your letter of June 1, inclosing an editorial from the New York Sun of May 30, alleging recent volcanic eruptions in Nicaragua, I sent the following cablegram to President Zelaya:

"It is urgent for me to answer officially as to the truth of published assertions that volcanoes of Nicaragua have recently been in eruption."

President Zelaya answered me as follows:

"The news published about recent eruptions of volcanoes and earthquakes in Nicaragua entirely false."

It stands to reason also that any seismic disturbances or eruptions of the kind alleged in the editorial would not be published exclusively in one or two papers, but would be discussed by the press at large. You will remember how quickly the Associated Press gave us the news of the earthquakes of Guatemala and Panama, and as quickly would that association have given us the details of troubles in Nicaragua, if any had existed, and we would not have had to wait reports via New Orleans. I may add also that Nicaragua has not had any volcanic eruption since 1835, and at that time Cosiguina discharged smoke and ashes, but no lava. No one was killed or injured and no property was destroyed by that occurrence.

You will observe on the map that all of the volcanoes of Nicaragua are confined to the Pacific coast, the nearest to the line of the canal being the Momotombo, about 100 miles distant. And in the Pacific coast you well know that the canal line is only 17 miles in length from the lake to the ocean. In the lake, as in the sea, there is nothing to be feared, and not a single volcano exists on the Atlantic side. Neither is there danger from earthquakes on this side, owing to the geological condition of the land here.

With great respect, sincerely yours,

LUIS F. COREA.

In further support of the statement of Mr. Corea and President Zelaya I will read the following communication from Mr. Merry, our minister to Salvador, Nicaragua, and Costa Rica, who was resident at San Juan for five years, and for thirty years has been intimately acquainted with all public events and conditions in Nicaragua. For many years he was consul of Nicaragua at San Francisco:

DEPARTMENT OF STATE, *Washington, May 29, 1902.*

The Hon. JOHN T. MORGAN,
Chairman Committee on Interoceanic Canals,
United States Senate.

SIR: I have the honor to inclose herewith for your information a copy of a dispatch from the United States minister at San José, Costa Rica, reporting the exemption of the Nicaragua Canal route and Costa Rica from seismic disturbances during the past two months, while earthquakes are reported at and in the vicinity of the Isthmus of Panama.

I have the honor to be, sir, your obedient servant,

JOHN HAY.

This is the dispatch:

LEGATION OF THE UNITED STATES OF AMERICA,
San José, Costa Rica, May 17, 1902.

The Hon. JOHN HAY,
Secretary of State, Washington.

SIR: It may interest the Department of State, in connection with the location of the interoceanic canal, to know that during the very serious seismic disturbances that have occurred on the west coast of the American continent and in the West India Islands the line of the proposed Nicaragua Canal and its vicinity has been exempt from this phenomena.

From Guatemala southerly the violence of the seismic disturbances gradually decreased in intensity, slight shocks being experienced at Managua, while Granada, Rivas, and the entire Nicaragua Canal line were exempt. In Costa Rica there have been no seismic disturbances since the catastrophe at Quezaltenango, Guatemala, and for some time previous.

At Panama, and on what is called the "Spanish Main," earthquakes have recently been frequent and in some locations severe, culminating at the Southern Windward West India Islands.

It is proper to mention this exemption of the Nicaragua Canal line from earthquakes, which have recently been experienced on and near the line of the proposed Panama Canal, for the reason that with the French and Franco-American proponents of the Panama route the earthquake argument has been reiterated against the Nicaragua Canal line with a persistency that is "childlike and bland," claiming that earthquakes are unknown at Panama and very prevalent on the Nicaragua Canal route. Certainly there exists a possibility of earthquakes yet to come in southern Nicaragua and Costa Rica, but thus far the late seismic disturbance has certainly not been experienced on the Nicaragua Canal routes or in this Republic, while it has attacked the route of the proposed Panama Canal with a severity that is possibly not permitted publication in Panama papers.

With assurances of my highest consideration, I remain, your most obedient servant,

WILLIAM LAWRENCE MERRY,
United States Minister.

Only this morning I received the following letter from Mr. Merry:

LEGATION OF THE UNITED STATES OF AMERICA,
San Jose, Costa Rica, May 24, 1902.

Hon. JOHN T. MORGAN,
United States Senator, Washington.

MY DEAR SIR: You are well aware that the French, Franco-American, and railroad proponents of the Panama Canal project have been loud in denouncing the Nicaragua Canal route as subject to imminent danger from seismic disturbance. As if nature desires to give the lie to their interested pretensions, the southern part of Nicaragua and Costa Rica have been free from earthquakes during the recent shocks experienced north and south of the canal location. The severity of the seismic disturbances in Guatemala decreased southerly, and only a light shock was felt at Managua, while Rivas and Granada were exempt, as well as the entire line of the canal and also this Republic.

Panama and vicinity experienced severe shocks, probably more severe than the newspapers of Panama, well under control, dared or cared to state, and earthquakes have been lately frequent in that part of South America formerly called "The Spanish Main," culminating in the dreadful catastrophe at Martinique. We may yet experience earthquake shocks here: but it is true that the Nicaragua Canal line and Costa Rica have been lately exempt from them, while the Panama Isthmus has not. The earthquake question as applicable to the canal is, in my judgment, of no practical consequence, as no structure can be safer than one just below the surface of the ground (comparatively), and there will be a very limited danger in this connection at either location. Should a violent shock occur at the Bohio Dam, starting the water through it, the Panama Canal would be destroyed.

Should a shock equally severe attack and destroy the Conchuda Dam on the San Juan River, the dam might be destroyed, but the damage to the canal would be the cost of another dam. But only the enemies of any canal use the earthquake argument, and I only allude to the present exemption of the most practicable route to contradict the assertions made by interested parties.

Hoping that this will find you in good health, and with assurances of my sincere esteem, I beg to remain, my dear Senator,

Your friend and obedient servant,

WILLIAM LAWRENCE MERRY.

I will also add the following extracts from the statements of witnesses before the committee on the hearings:

Statement of Chester A. Donaldson, United States consul at Managua, Nicaragua.

Q. Are there volcanoes in the lake?

A. Yes; there is one volcano in Lake Nicaragua, rising out of the lake, Ometepe.

Q. About what is the height of that volcano?

A. I believe it is put down at nearly 6,000 feet.

Q. About what is its measurements across the base?

A. That I do not know. I should say it is about 10 miles through.

Q. Do people reside around the base of the volcano?

A. Yes.

Q. Is there a village there?

A. Yes; there is a village of about 1,000 inhabitants, who are mostly Indians. Some of them are agriculturists.

Q. Is the island fertile?

A. Yes; it is very fertile. They raise coffee, bananas, plantains, sugar cane, cacao, and cattle. I think that is about all they raise.

Q. So that the village there is a permanent agricultural settlement?

A. Yes. Everybody living in the village has a little piece of land outside. The Nicaraguans always live in that way. They do not live on their farms as our farmers do. They live almost entirely in the cities and villages, and they ride out and see their farms probably 20, 25, or 30 miles.

Q. Do tenants live on their farms?

A. They always have some workmen—Indians—living on their farms.

Q. Is this Ometepe volcano in action? Is it alive?

A. It has the appearance of being in action, as there is always smoke or steam rising from it.

Q. Is it smoke, or is it a cloud?

A. It is very difficult to tell. I have never seen what I would be sure was smoke coming out, although it does occasionally issue smoke.

Q. What is the tradition or reputation there as to how long it has been since the volcano was in action?

A. I never heard of its being in action at any time. It rises to a perfect cone. Most volcanoes that have ever been active have blown off one side, but there is nothing of that kind there. It is perhaps the most perfect volcano in the world, rising right to a perfect cone.

Q. There is another volcano, Mombacho, near Grenada, right on the shore of the lake?

A. That is also a live volcano in the same way as Ometepe. It is not extinct. The smoke does show, but it is almost always cloudy, so that you can not see anything. Occasionally the clouds break away, and then it appears as if there is a little light smoke or steam rising from the top. Mombacho was in action about twenty years ago, before I went there, and it frightened the people there very much. They have some earthquakes.

Q. I suppose you have experienced earthquakes since you have been living in Nicaragua?

A. Yes. The biggest earthquake they have ever had in Managua was since I have been there.

Q. Did that earthquake seem to produce an impression on the volume of water in the lake?

A. Not at all.

Q. Did it produce any real disturbance on the lake?

A. Not at all. My wife was sitting, chatting with a friend, looking at the steamer as it drew away from the dock. The steamer had gone about half a mile away from the dock when the earthquake occurred, and my wife said it looked as if the steamer stopped. When the earthquake began, the lake was slightly wavy, rough; but immediately after the earthquake it was very noticeable that the lake was perfectly calm. The earthquake seemed to have had a neutralizing effect upon it.

Q. What year was that?

A. On the 29th of April, 1898. That was the hardest earthquake recorded in Nicaragua for a century.

This is the statement of Mr. Lyman E. Cooley:

The CHAIRMAN. You have spoken of Ometepe, one of the volcanoes on the island of that name.

Mr. COOLEY. There is one, Mosaya; another, Mambaco, and also Monotombo, and many old cones.

The CHAIRMAN. They are grouped together in the lake?

Mr. COOLEY. West of the lake there is another on Ometepe Island, called Madera.

The CHAIRMAN. Is there any sign of recent volcanic disturbances in those uplifts?

Mr. COOLEY. I looked particularly for that. There are discoverable cracks in the adobe buildings, due to earthquakes, which I found at Rivas. I could not discover around Lake Nicaragua any evidences that there had been any warping of the earth which has changed the present level of Lake Nicaragua or its shores since it was formed. I do not think there has been. I feel safe in this statement, that since the formation of Lake Nicaragua there has not been a disturbance on that route equal to the New Madrid earthquake of 1811 (December 16) in northeastern Arkansas and southeastern Missouri.

I was in that country when I was on the Mississippi River surveys in 1878-79, and there still exists sunken lands and lakes and changed rivers that were produced by that earthquake, that everybody recognized as having been so produced. There has not been a disturbance in historic times in Nicaragua that has produced phenomena as radical as that in character, and probably not since the lake was established at the present level. It has been stated, and I think probably it is true, that there have been no earthquakes in that country in the historic period as severe as the Charleston earthquake.

I suppose the Senate knows Mr. Lyman E. Cooley. A great many of the Northwestern Senators certainly know the man who constructed the Chicago drainage canal.

This is the statement of S. W. Plume. Plume was trackmaster on the Panama Railroad for six years:

The CHAIRMAN. Did the Panama Canal Company have good shelter for its hands and good hospitals?

Mr. PLUME. Yes; there is no finer hospital on the globe than the one they have at Panama. It is on the side of the Ancon Mountain, which used to be a volcano several centuries ago, and the lava from the volcano went across Panama and out into the bay about a mile. The hospital is a splendid thing. It is said to have cost $5,000,000, and I guess it did. Down in this valley you dig a hole about two feet deep and you come to a boiling spring, right under the mountains, and they have engines there pumping water up to this hospital.

There is a man in Panama who has a concession to bury people. He opened a graveyard, I suppose 300 feet one way and 400 the other. Every grave is numbered that they may know who is buried there. In exactly one year after he opened it I drove by there, and there were 1,875 crosses in that burying ground, and that does not count the men that were in the ovens. They have ovens along the wall, a brick wall, and they bury people in there who can afford to pay for it; but there were 1,875 crosses in that burying ground, to give you a little idea of the health of the country.

Statement of Prof. Lewis M. Haupt.

EARTHQUAKES.

As to the question of seismic disturbances, I would only add that it has been shown by students of seismology that the presence of active volcanoes act as a safety valve for internal disturbances; and the number of craters along through Nicaragua and Costa Rica being quite large, it affords a vent for any internal stress of the earth, and therefore there are fewer injurious earthquakes in that section of the world than at Panama or elsewhere; and I was very much surprised in studying that subject to find that the percentage of earthquakes was lower in Nicaragua than in almost any other portion of the world. Now, we have had some earthquakes in this country recently—one in St. Louis and one in Oregon and many in California—so that, so far as that goes, it shows that there need be little anticipation of trouble from that source.

Senator HARRIS. You say that your investigation shows that Nicaragua is the freest from earthquakes of any country in the world?

Mr. HAUPT. Yes; from serious earthquake trouble; but they have had some earthquakes there. Panama was badly shaken in 1858 and again in 1882, when Colon was rent with a seam across the town. The iron railroad bridge at Barbacoas was shifted out of position. So that the Commission has put those on a parity and dismissed the subject, with the belief that the canal works being buried in the earth would not be seriously interfered with by earthquakes in either case. I think, Mr. Chairman, that that probably covers most of the points.

I next present a statement from Lyell accompanying an editorial of the Engineering News.

LYELL—PRINCIPLES OF GEOLOGY.

Previous to the destruction of La Guaira and Caracas, in 1812, South Carolina was convulsed by earthquakes, and the shocks continued until those cities were destroyed. The valley also of the Mississippi, from the village of New Madrid to the mouth of the Ohio in one direction and to the St. Francis in another, was convulsed to such a degree as to create lakes and islands.

Flint, the geographer, who visited the country seven years after the event, informs us that a tract of many miles in extent, near the Little Prairie, became covered with water 3 or 4 feet deep, and when the water disappeared, a stratum of sand was left in its place. Large lakes of 20 miles in extent were formed in the course of an hour, and others were drained. The graveyard at New Madrid was precipitated into the bed of the Mississippi; and it is stated that the ground whereon the town is built and the river bank for 15 miles above sank 8 feet below their former level. The neighboring forest presented for some years afterwards "a singular scene of confusion; and the trees standing inclined in every direction, and many having their trunks and branches broken."

The inhabitants relate that the earth rose in great undulations; and when these reached a certain fearful height, the soil burst, and vast volumes of water, sand, and pit coal were discharged as high as the tops of the trees. Flint saw hundreds of these deep chasms remaining in an alluvial soil, seven years after. The people in the country, although inexperienced in such convulsions, had remarked that the chasms in the earth were in a direction from southwest to northeast; and they accordingly felled the tallest trees; and laying them at right angles to the chasms, stationed themselves upon them.

By this invention, when chasms opened more than once under these trees, several persons were prevented from being swallowed up. At one period during this earthquake the ground not far below New Madrid swelled up so as to arrest the Mississippi in its course and to cause a temporary reflux of its waves. The motion of some of the shocks was horizontal and of others perpendicular; and the vertical movement is said to have been much less desolating than the horizontal. If this be often the case, those shocks which injure cities least may produce the greatest alteration of level.

We learn from Captain Bayfield's memoirs that earthquakes are very frequent on the shore of the estuary of the St. Lawrence, of force sufficient at times to split walls and throw down chimneys. Such were the effects experienced in December, 1791, in St. Pauls Bay, about 50 miles NE. of Quebec, and the inhabitants say that about every twenty-five years a violent earthquake returns, which lasts forty days. In the History of Canada it is stated that in 1663 a tremendous convulsion lasted six months, extending from Quebec to Tadeausac—a distance of about 130 miles. The ice on the river was broken up, and many landslides caused.

[Engineering News, May 15, 1902.]

Among the most notable earthquakes, that of Lisbon is doubtless the most famous for a similar reason to that which has made Pompeii so celebrated. But the total loss of life in the Lisbon disaster (given by Mulhall at 35,000) has been several times exceeded in the past two centuries. In 1703 no less than 190,000 lives are said to have been lost at Yeddo, Japan, and in 1731 Pekin was visited by earthquake shocks which cost 95,000 lives.

At Cairo, in 1754, a year before the destruction of Lisbon, 40,000 lives were lost in an earthquake, and almost the same number were lost in Quito, in South America, in 1797. No longer ago than 1880 an earthquake in Manila cost 3,000 lives. A very recent earthquake at Shemakha, in the Transcaucas, in which 3,000 to 5,000 lives were lost, was described in our issue of April 24. Central America is a seat of almost continual seismal activity. In 1733 Guatemala experienced an earthquake which is said to have cost 33,000 lives, and only recently (on April 18) earthquake shocks were reported to have caused many deaths there.

It is of interest to note that in the disasters due to earthquakes most of the deaths usually occur from secondary causes. People are killed in earthquakes chiefly by the fall of buildings and other structures and also by the tidal wave, which is the most frequent accompaniment of earthquake shocks. In fact, in some cases such waves, due doubtless to an earth tremor beneath the sea, has swept upon a coast when no earth tremor had been felt at all.

Everywhere man looks upon the ocean's level as only less fixed and unchangeable than the land itself. Just beyond the reach of its highest tides he builds homes and cities with supreme confidence in their safety. But the earth shock beneath the ocean bed often sets a wave in motion on the surface, like the ripple which a jar will start upon the surface of a filled cup, and it sweeps on the shore, carrying everything before it.

In the old time physics, matter was classified in the four elements of earth, air, fire, and water. The volcano and the earthquakes may be said to represent activities of the first element, tornadoes the second, conflagrations the third, and floods the fourth. These last far exceed in magnitude all the other great disasters which history records.

Indeed, it is altogether probable that the loss of life in floods since history began exceeds the combined losses from all the other calamities named above. The greatest and most disastrous floods have been those from the ocean, of which the most recent example is the destruction of Galveston only two years ago, when some 12,000 lives were lost. Two other severe inundations of the South Atlantic coast have occurred during the past half dozen years, in each case accompanied by the loss of many lives among the dwellers on low-lying coast islands.

Of all the lands on which the ocean has wreaked its fury Holland has suffered the worst, through the breaching of the dikes which shut out the ocean from great tracts lying below the ordinary sea level. The greatest of these disasters, as recorded in the paper referred to above, was in 1530, when no less than 400,000 lives are said to have been lost. A century later, in 1646, 110,000 persons met death in another great inrush of the ocean.

Compared with these the loss of life in flooded river valleys is insignificant. Here, except in such rare instances as that at Johnstown, where the flood caused by the breaking of a dam rushed down a narrow valley before warning could be given, most persons in the flood's pathway are able to flee to higher ground. The only great disasters from river floods which can compare with those from floods of the ocean have occurred on the flat delta plains at the mouth of great rivers where the land was crowded with a dense population.

The most notable example of this is the Yellow River, of China, by whose floods in 1642 300,000 lives are said to have been sacrificed, while 200,000 are believed to have perished during a similar inundation only fifteen years ago. In India the Ganges rose in a similar flood in 1876, claiming some 200,000 victims.

On our own Mississippi the loss of life in its frequent floods have been comparatively slight, owing to the widely different topographical conditions. The so-called delta, from Cairo to New Orleans, is really an alluvial valley with comparatively steep slope and plenty of opportunity for refuge in case of floods. The true delta plains below New Orleans is practically uninhabited.

Compared with these great calamities, those due to the failure of the works of men seem trifling indeed. It is by their number and frequency and the fact that they are to a greater or less extent preventable that they deserve and receive so much larger share of attention.

Finally, there are two classes of great disasters which have each cost more lives in the aggregate by far than any of the elemental disturbances—the so-called "acts of God." These are great pestilences and great battles, the first due to man's ignorance, the second to the rein which he gives to his more primitive and savage instincts. Modern civilization is fast proving itself able to cope with the causes of each of these great calamities, and future historians will have fewer of them to record upon the roll of great disasters.

I will read the statement of Daubeny for the purpose of showing the volcanic condition of the Galapagos Islands, which lie off the coast of Panama to the south, right across the equator, and are about 300 or probably 500 miles distant, according to where the island may be located in the group.

The islands—

Says he—

The islands of Revillagigedo, near the coast of Mexico, lie nearly in the same latitude, and being volcanic may perhaps connect the band of igneous operations going on beneath the Pacific with that of North America. Farther south, nearly parallel with the equator, and with the volcanoes of Quito, which will be afterwards considered, is the Galapagos group, of which Mr. Darwin has given us so interesting an account. It consists of five principal islands and of several small ones, all of which are volcanic, and on two of them craters have been seen in a state of eruption.

The craters are extraordinarily numerous, amounting perhaps to more than 2,000, and are formed either of tufa or of scoriæ and lava. The tufa is met with in two forms, the one friable, like slightly consolidated ashes, the other compact, with a luster resembling resin, of a yellowish-brown color, and translucent. It is brittle, with an angular, rough, and very irregular fracture, and in hand specimens might be taken for pitchstone, although when examined on a large scale its concretionary structure reveals its real origin. Mr. Darwin suggests that the remarkable change which this material appears to have undergone since it was first deposited under water may have arisen either from the action of heated water within the craters or more probably from the admixture of the calcareous matter which penetrates it in thin seams.

The Galapagos Islands are not more than 500 miles from the Bay of Panama, out in the Pacific Ocean, and are the cause of the seismic disturbances that reach Panama.

Colonel Ernst, in giving his testimony before the committee, described some pits that had been sunk, large square wells (I think they were square), down to the ocean level, or very close to it, for the purpose of determining what was the geological structure of that country from top to bottom—Culebra Hills and Emperador. He and Mr. Noble also testified that when they were down in the pits they brought up specimens of indurated clay, said to be compacted so hard that it looked like rock and had to be handled almost like rock.

They brought the specimens up with them from the bottom of the pits and put them in bowls or glasses of water, and they instantly dissolved. They tried it over and over again, always with the same effect. They could not account for it. Some day it will be accounted for, when you get the water in there. You will find the bottom of your canal melting away. That is the reason why the Isthmian Canal Commission have made an allowance for building a stone wall on each side of the canal not less than 2 feet thick—I think it is 3—from 2 to 3 feet thick—below the proposed bottom of the canal up to and 3 feet above the level of the water in the canal for 7 miles on each side—14 miles of wall—necessary to protect the canal against that dissolving material.

Colonel Ernst said while he was down in these pits he found sharks' teeth. How did they get there? I do not think the sharks could have been bred on land. Those sharks were inhabitants of sea water, and they were there when an earthquake tumbled in that country and built the mountain that we call Culebra and Emperador; and some of these days when we get to work down there, if we ever shall, we will find it very necessary indeed to look out for seismic disturbances which will tumble that ground back again or else will bring down the volume of the mountain or the hills into the valley of the canal.

Knowing that Prof. Lyman Cooley is a man of remarkable abilities and learning and that he is a just man, I asked his opinion and his knowledge as to seismic disturbances in Nicaragua. He visited that State in company with a large party of engineers and contractors who were examining the questions of investments in construction contracts for building the Nicaragua Canal. Their researches were such as men would make who had large personal interests at stake, and their conclusions are practical and reliable. I will read Mr. Cooley's letters, in reply to my inquiries:

CHICAGO, ILL., 21 QUINCY STREET, *May 15, 1902.*

Hon. JOHN T. MORGAN,
Washington, D. C.

DEAR SENATOR: I trust you are not disturbed by the calamity howlers who are using the appalling loss of life by the volcanic eruptions in the Windward Islands as a base for predicting dire disaster to the Nicaragua Canal.

The cone of Ometepe is some 12 miles from the canal location, with about 8 miles of intervening water. I have seen nothing in the dispatches to indicate that a canal similarly located in respect to Mount Pelee would have been destroyed in the present eruption, though some damage might have resulted. Vesuvius is a mountain of vastly larger bulk than Ometepe, has had sixty eruptions in the Christian era, has destroyed the population on its slopes and buried cities at its foot, and in one eruption has thrown out more than its entire mass; yet a city has always existed across the bay at Naples, not farther away than the canal line from Ometepe. A canal could have been maintained at Naples for the past two thousand years.

The conditions in the Nicaragua Valley are not parallel to either of these cases. There are no physical evidences, no historical records or traditions, to indicate a similar expectation. We know of nothing in the vicinity of either the Nicaragua or the Panama route equal to what occurred on the Atlantic coast at Charleston, and this would not deter the construction of a canal in that portion of the United States.

There has been nothing to compare with the series of New Madrid earthquakes in 1811-1813 in the heart of the Mississippi Valley. The exhibit is still in evidence in lands sunk, lakes formed, and rivers changed. Judging by actual occurrences, a canal anywhere in the region between St. Louis and Vicksburg would be more unsafe than in Nicaragua or Panama, yet I do not know that the possibilities have been raised in connection with any public work in this region or in the building of the city of Memphis.

In San Jose, in the very shadow of the great volcanic knot of Costa Rica, I inspected a public building costing several million dollars that in design and construction would be suited to the United States. The railway that reaches this city from the coast has locations as perilous as the Denver and Rio Grande. Costa Rica has been populated by an intelligent people since the early settlement of America, yet the authorities are not apprehensive.

As between Nicaragua and Panama, there is no evidence on the Nicaragua route equal to the earthquake on the Panama route in 1882, if I recall the date. A crevasse was opened across Colon, and the old cathedral at Panama was damaged. The old cathedral at Leon, on the plain of Leon and opposite several volcanic vents, has been built since the early occupation, nearly four hundred years ago, and shows little evidence of destructive effects. Leon is more than 100 miles west of the canal route and near the most active center of disturbance in Nicaragua. At Rivas, close by the canal route, there are some evidences of earthquake effects, but none of a serious character.

The Caribbean is bounded on all sides by volcanic formations. The Greater Antilles, the Isthmus, and the coast of the mainland antedate the Tertiary period. The forces have been dormant and the land stable during recent geologic time. The volcanic formations athwart the Caribbean, and known as the Windward Islands, are comparatively recent.

The formations between Lake Nicaragua and the sea are partially volcanic, but of such great age that they are decomposed for a depth of more than 100 feet and constitute the red clays of this region. Earthquakes are no more serious here than in this latitude; in fact, I failed to learn that they had ever excited more than passing interest at Greytown. The western division of the canal, between the lake and the Pacific, is in sedimentary rock, and not in volcanic formation at all.

There is a line of vents from the Costa Rica knot to the Bay of Fonseca. So far as active in recent time they constitute a series of cones and dumps as on the open plain of Leon. Farther west, in Salvador and Guatemala, volcanic disturbances are on a large scale and destructive. Coseguina, at the remote corner of Nicaragua, on the Bay of Fonseca, experienced a violent eruption in 1835, but this did not deter the British from occupying Tiger Island, in the same bay, as a naval base a few years later.

The island of Ometepe is on this line of vents and immediately opposite the Pacific division of the canal. It is a volcanic dump in Lake Nicaragua from the two cones Madera and Ometepe, which occupy its entire area. Madera has been so long spent that the summit is degraded to a rounded contour. Ometepe has a sharp ash cone and smoke has been reported, but I do not know of any positive eruption. In fact, I do not know of any notable eruption in historic times nearer than Mount Monbacho, toward the head of the lake and near the city of Granada. There is no evidence to show that the immediate valley of Nicaragua, near the canal route, has been seriously disturbed since remote geologic time, and there is much evidence to show that no serious disturbance has occurred in recent time.

Lake Nicaragua is an old arm of the Pacific, shut out by change in base level and by volcanic dumps in the region of Masaya and farther west. An old river bed can be traced in Lake Nicaragua more plainly than old river courses are defined in Lake Erie, so volcanic matter has not obliterated the outlines of ancient topography in the lake. An eruption similar to the Java eruption would have boiled all the water in Lake Nicaragua, and as Pacific sharks are still in the lake such an eruption has not occurred since the lake was formed.

There is an ancient crater of tremendous size a few miles from Masaya, in the rim of which a railway is built. It contains a large lake, and on its shores are monuments so ancient as to leave no tradition. This is probably one of the originals, now as dormant as the old craters that constitute the diamond fields of South Africa.

There are no evidences of any changes in level due to earth warping about the shores of Lake Nicaragua, and there is much evidence in alluvial deposits of long-continued stability.

The Rio Grande and the Tola have both captured tributaries of the lake through long-continued and undisturbed processes of erosion, so the canal region between the lake and the Pacific can not have been greatly disturbed in any recent period.

The country about Rivas was well populated and governed by a powerful chief at the time of the conquest, nearly four hundred years ago. The inhabitants were and are still of the Maya stock, to whom the monuments of Yucatan and Guatemala are ascribed. They were the most civilized and ancient stock of the Montezuma empire and bore about the same relation to the warlike Aztec and Toltec as the Greeks did to the Romans. We have neither history nor tradition of violent eruptions in this vicinity.

The island of Ometepe was occupied by different stock (also the shore of the bay of Fonseca), which Squiers regards as a military colony planted in the formative period of the Montezuma empire. The island is still populated. It may be assumed, therefore, that for at least seven hundred years there has been no eruption sufficiently serious to destroy or drive away the inhabitants of this small island, and, further, that it must have been regarded as a safe abiding place for a military colony at that remote time.

I gave this whole question careful study four years ago, and what I now state is from recollection, and I do not undertake to be exact as to details. I then became fully satisfied that there was no imminent danger such as should deter the construction of a canal, though earthquake contingencies should not be ignored. No man can say that violent eruptions and earthquakes will not occur.

That is possible anywhere on earth and we have two examples of destructive earthquakes in the United States in one century, and apparently remote from volcanic regions.

If you wish to go into this matter fully, I suggest that you call upon Dr. Hayes and Major Dutton, both of whom have made special study of this question.

Trusting that this will be of service, I remain,
Yours, truly,
LYMAN E. COOLEY.

I have already had published a paper, by order of the Senate, from Major Dutton, containing a letter addressed to the Maritime Canal Company many years ago, in which that very eminent scientist and geologist went to the bottom of the whole subject and pronounced the most thoroughly satisfactory opinion, which I am requested by Mr. Cooley to bring forward. I had that printed as a document twelve or fifteen years ago for the information of the Senate.

On May 17 Mr. Cooley again says:

CHICAGO, ILL., *21 Quincy Street, May 17, 1902.*

Hon. JOHN T. MORGAN,
Washington, D. C.

DEAR SENATOR: I wish to add to my letter of the 15th instant, in respect to volcanic action in Nicaragua, as follows:

1. The direct effect of volcanic action is limited to the dump, though lava may flow beyond the base and fine material be more widely distributed, to the temporary injury of vegetation.

2. Destructive effects to structures located at a distance are due to shock. The walls of Herculaneum and Pompeii were not thrown down. Walls in St. Pierre are still standing. Fort de France, in Martinique, and Kingston, in St. Vincent, only a few miles from destructive eruptions, have not suffered. The observatories throughout the world have detected no earth quivers, such as accompany ordinary earthquakes. Volcanic eruptions are not necessarily destructive except in the immediate vicinity.

3. The entire Isthmus of Panama is of volcanic origin, but so remote that it is deeply decomposed and denuded. More earthquakes are recorded and of a more severe character than on the Nicaragua route.

4. The Nicaragua route is in sedimentary rock, except a limited area back of Greytown, of ancient date and deeply decomposed and eroded, and free from disturbance, as far as known. The valley of Nicaragua along the canal route has been stable since its formation. There are no ancient beach lines, as about the Great Lakes, to show changes in level and warpings, nor any indications such as lead Professor Gilbert, of the United States Geological Survey, to predict that the outlet of the upper lakes will be transferred from Niagara to Chicago in twenty-five hundred years.

5. The regional activity in the past was restricted to the Costa Rica district, east of the valley, and to the Masaya district on the west, and connected by a line of vents, of which Ometepe is an example. These forces are so far spent that no investigations, official or otherwise, have heretofore considered them a serious menace.

6. There is a regional activity in Salvador and Guatemala and beyond the bay of Fonseca. Destructive effects characterize these districts.

7. Such cones as Ometepe and Monotombo and those on the plain of Leon characterize the Nicaragua dumps. These are sharp ash cones with steep declivities, indicating mere chimneys rather than explosive eruptions with large lava flows.

8. A new line of fractures is not probably any more than in a boiler, unless the old line is patched up so as to be stronger than elsewhere.

9. The recorded phenomena in regard to tornadoes indicate a greater mathematical probability of Kansas City or even Chicago being wiped out by a tornado than the evidence in the Nicaragua Valley indicate that the Nicaragua Canal will be destroyed by an earthquake. Direct destruction by a volcanic eruption is not within the domain of mathematical probability.

10. Earthquake shocks occur nearly every year, and sometimes several times a year, on the Pacific coast; but they build irrigation works, dams, and heavy buildings just the same, and are not deterred by the possibility of a destructive earthquake, which may be a remote contingency or may never occur.

11. What may happen in long periods of time anywhere on earth can not be discounted. The ruins of Baalbeck were dislocated six to seven thousand years after the structures were built, and when the builders had passed into tradition. I do not imagine that such a contingency would affect an insurance rate. There are possibilities of destruction to any great bridge in the United States which, from the commercial standpoint, engineers consider too remote to justify provision against.

12. The health question is vastly more important to human life than any question of volcanoes or earthquakes. You can concede all the allegations of volcanic possibilities in Nicaragua and still have a very small menace to human life in comparison to the health conditions on the Isthmus of Panama.

Yours, truly,

LYMAN E. COOLEY.

Turning to Panama, without a desire to disparage it, I will read an account, taken from the Panama Star and Herald, that was published in Panama at the time of the great earthquake of September 7, 1882. That paper had no reason for exaggerating that great calamity, and its statements are accepted as being literally true:

GREAT EARTHQUAKE ON THE ISTHMUS OF PANAMA SEPTEMBER 7, 1882.

The United States consul at Panama (Mr. R. W. Turpin), in an official dispatch to the State Department dated September 14, 1882, inclosed a copy of the weekly edition of the Panama Star and Herald containing a full account of the great earthquake of September 7 and 8 of that year, from which the following facts are culled.

The damage to Panama city alone was estimated at from $250,000 to $300,000. The municipal buildings and the assembly chambers were greatly damaged. The whole of the massive balconies were shaken down, dragging the roof and adjacent timbers with them. The great cathedral was almost a total wreck. Its ornate pediment and tower, composed of heavy blocks of stone masonry, fell, crashing through the roof near the main entrance to the building. Every arch in the nave was seriously cracked and split. All the side aisles were shaken out of position, and the side and end walls of the edifice were so badly cracked that the building was condemned as unsafe. Many of the private residences were shaken down; others were seriously damaged. The walls of the canal office were rent and the building was condemned as unsafe.

Outside the city the damage was even more serious. The great tower of Malambo Church was tumbled down, and half the roof of another church—the Santa Anna—fell in. The Pacific Mail steamship *Clyde*, anchored outside the shallow harbor, was lifted bodily out of the water and fell back with a frightful thud, flooring crew and passengers; but, strangely enough, there was no very serious damage to the vessel itself beyond the springing of a few leaks in the keel.

The effects of the shock, or rather succession of shocks, along the line of the Panama Railway were very serious. Stone abutments, bridges, and culverts were cracked, warped, or thrown down entirely. The earth sank from 2 to 10 feet in some half dozen different places. At Emperador, Gatun, Matachin, and other stations along the canal route the damage was very great. In many places the roadbed and rails of the Panama Railway were torn up or warped and twisted out of position. It was fully a week before trains could pass from one side of the isthmus to the other. Between Gavilan and Punta Mala a crevice was opened in the earth from 10 to 15 meters wide.

At Colon, the Atlantic terminus of the canal, a deep fissure was opened in the earth about 400 feet long of considerable width and great depth. Buildings were shaken from their position, and vessels at anchor in the harbor were violently shaken up. Between the wharf and the lagoon the earth was split in many places. Many of the buildings near by were shaken down bodily. Several lives were lost, and many people were badly crippled.

At a point about 20 miles from Chagres, near the line of the canal, a small mud volcano was developed, which, however, soon subsided without doing much damage. About 35 miles from Colon, in the direction of Bocas del Toro, the tide suddenly rose to the height of nearly 15 feet, completely flooding the houses; and nearby the earth sank in many places several feet. Thermal springs appeared in the same neighborhood, throwing boiling water to considerable heights, which, however, soon subsided.

The bronze statue of Columbus near the wharf at Colon was shaken down from its pedestal, and the stone foundation was moved several inches; and just outside the city new lagoons were formed while existing ones disappeared.

I had supposed when the report of the Isthmian Canal Commission on the subject of volcanoes and earthquakes was not questioned in the committee that no point would be made on either route on that account.

But the new light thrown on the subject by Mount Pelee and the Sun of New York has brought Panama under observation and would forever destroy her pretensions in the minds of those who would not build a bridge across the Mississippi River because 30 acres of land was sunk by an earthquake at New Madrid and an island was sunk in the Gulf near the mouth of the Mississippi.

If this is the only way to defeat the Nicaragua route, I am very sorry that it will necessarily carry the Panama route down with it if the facts have anything to do with the result.

Mr. President, in our national infancy, in the early days of the last century, we began to prepare for a work that we are now about to consummate.

The Committee on Interoceanic Canals agree "that there must be a canal across the American Isthmus." In this they represent almost the entire population of the United States.

The great geographers, such as Humboldt and Maury, explored the field of operation with clear vision and scientific research, and Maury seventy years ago made a selection of the canal line that is as true and accurate as to the proper location and feasibility of the canal as if he had measured the ground in company with Childs, and Lull, and Menocal, and the Commission of Ludlow, and the Nicaragua Canal Commission, and the Isthmian Canal Commission.

With the exact eye of science, Maury saw the truth of the situation and pointed it out with an accuracy of demonstration which has not failed in any particular and with the enthusiasm that inspires the prophecy of the future glory of his country that always warms the soul of a true American.

All these great engineers and commissions agreed with Maury in all their reports until the siren of speculation diverted their lines of measurement to lines of financial economy, and for a time some of them doubted the value of their own long and laborious studies and frequent reports in the prospect of saving money in the cost of construction and operation of the canal. That was a mistaken calculation.

Following Humboldt and Maury, the Government began, with the dawn of the century, to prepare for its proper work of opening the canal, and such minds as those of Adams, Clay, Monroe, and Jackson took it up with intense zeal and enlightened purpose.

Since those days and in the midst of many disappointing delays we have as a people grown up to the full magnitude of the subject and have attained the ability to deal with it.

Even ten years ago we did not fully understand all the questions that enter into this great inquiry as we do now, and we had not then so developed our commercial and financial strength that we could feel an absolute assurance that the cost of such an enterprise was within our control, so as to undertake it with no fear of straining the credit or the resources of the country.

It now appears that we alone of all the great nations are able to build this canal without borrowing money from other countries or from other people.

While being delayed by the wise hand of fate—shall I call it?—we have cleared up some troubles that were of our own creation, if they were ever real, in a treaty with Great Britain. We have also removed this mask from the faces of those who wore it to conceal the real purpose of their selfish opposition to any and every isthmian canal.

Now, that we have reached a pure and unclouded American atmosphere, we are ready to proceed with caution, firmness, and determination to complete this great undertaking.

I am much tempted to look up from the ditch I have been trying to dig, as a colaborer with many earnest and able men, and survey the glorious work in which this great Republic is engaged, but I dare not, lest I should become dazed by its magnificence and lose all usefulness in the performance of my personal task.

I will try to examine what we are doing with careful scrutiny to see if the work is safe and certain, within the limitations of reasonable calculation and forecast and in the light of experience, and, so far as I am concerned, I will continue to dig in the ditch until, in the providence of God, it is filled with hot lava rather than run away from it because some other place has been shaken with earthquakes or covered with the ashes and lava of volcanoes.

It is a work that deserves the courage of men who are moved by a sense of duty.

If the canal can exist as long in Panama or Nicaragua as Naples has lived, and has grown great and prosperous at the foot of the volcano of Vesuvius, I think this generation at least should be content to build it.

Vesuvius covered up Herculaneum and Pompeii in the fifty-second year of the Christian era, and it has been vomiting flame and smoke from that time to this. They are on a direct line about 15 miles from Naples, which has sat on the shores of its beautiful bay and smiled at the world for more than nineteen centuries.

That is, perhaps, as long a lease as we would like of a canal route, accompanied with a guaranty of the sovereignty of the country through which the canal is to be cut.

I will return to this branch of my subject before I close my remarks.

Whatever course the Senate may take on this bill, whether it is to concur with the House in its views, twice repeated in the same language—once in the bill that passed the House in the Fifty-sixth Congress, first session, on the 2d day of May, 1900, and the other in the present Congress, on the 9th day of January, 1902, which is the bill now before the Senate; or whether it shall pass the substitute to this bill, which has just been read, or whether some other form of legislation is adopted for the construction of a canal, a canal will now be dug.

Believing that this is the honest purpose and determination of the whole Senate, I will do what may fall to my lot in this matter, in the spirit of free conference, on all its features, with every Senator and with the House of Representatives.

The minority of the committee, in recommending the selection of the Panama route, omit any discussion of the character of the population that inhabit the canal region and the chronic state of insurrection and violence that has existed among them for more than sixty years—conditions that must be radically changed before we can venture to pay a vast sum of money for the construction and operation of a canal at Panama.

In the studies I have been able to make of the Panama route, so that I could reach a just and impartial conclusion as to its merits, I have considered it of the highest importance to learn what I could about the population of the State of Panama and its political conditions, as they may affect the tranquillity, peace, and safety of those engaged in constructing and controlling a great ship canal, which is a peculiar task of great delicacy, and requires safe conditions and environment to secure success.

I attach such importance to these conditions that I must beg the indulgence of the Senate for presenting some facts taken from standard authorities, and the depositions of witnesses on the hearings before the committee that truly describe them.

Under the Spanish rule negro slaves were imported in large numbers from Africa to all the tropical countries of America, and especially to those places where the conditions of climate and health were least favorable to Spanish occupancy.

The islands and coasts of the Caribbean Sea were the favorite plantation localities for these reasons, and the negroes were employed in raising profitable crops of sugar, coffee, tobacco, cacao, and tropical fruits and nuts that would bear exportation.

The Carib Indians, whose home was in the Leeward Islands—chiefly in St. Vincent and Dominica—are the only aborigines who have withstood the civilization of the white man and the competition of the negro, and this has resulted most largely from the fact that they are a race closely allied, in color and other physical conditions, with the negro.

The English, in 1796, to get rid of the strife they habitually engendered, moved them in large numbers to the isthmian countries, chiefly to Honduras.

They intermarried with the negroes and have bred a mestizo race, very extensively, of whom there are large numbers in Panama. They have not been allowed to settle in Nicaragua or Costa Rica.

All the isthmian states abolished slavery when they achieved their independence of Spain in 1821, after much effort and commotion, but with little bloodshed.

Panama became an independent state, with a population of negroes, Caribs, and native Indians that comprised about two-thirds of its inhabitants, all of whom, with the people of Spanish origin, were put upon an equal basis as to political rights.

Panama was a separate, sovereign state, by the recognition of Spain, and entered into a federation with Colombia, Venezuela, and other states of South America, called the "Republic of Colombia," of which Simon Bolivar was President.

In 1831 Venezuela withdrew from the federal government and Panama entered into another confederation, called the "Republic of New Granada." Civil war ensued upon this new combination, and Panama declared its independence of New Granada in 1840, and again returned to that confederation in 1841. The bond of union between these States was slack, and the separate independence of Panama was the political ideal of some adroit men (some of whom were negroes), who numbered nearly the entire body of negroes, Caribs, and Indians in their following.

In this period, from 1821 to 1846, Panama was in continual political ebulition, strife, and civil war over the offices of the State and federal government. To such an extent was this carried that the government of New Granada was put to much expense in supplying armed forces to sustain its authority in Panama.

The following brief extracts from Bancroft's History of Central America will show the political conditions in Panama down to 1846, when the United States undertook, by treaty, to guarantee to New Granada the ownership and sovereignty over Panama. They will also make clear the reasons of New Granada for seeking that guaranty.

If that treaty of 1846–1848 discloses any corresponding inducement to the United States for making such engagements I have failed to discover it.

I wish to say here that in the researches I have been able to make that is the only treaty of this kind in the world. It is the only treaty in which a foreign government engages to maintain the supremacy of another foreign government over one of its dependencies or provinces, or whatever the political division may be called.

The treaty is entirely sui generis. It is entirely without precedent. It is in all of its features, as I conceive, the most dangerous treaty that could be made. It is a guaranty on the part of the United States that it makes no difference what Colombia may do to Panama, or what the extent and nature and character of the abuses of Panama may be, we will still guarantee the sovereignty and the ownership of Colombia over Panama, notwithstanding justice and mercy might call upon us in trumpet tones to reverse our line of action and discard the obligation of that treaty.

That is the way we bound ourselves in 1846 to the State of Colombia, and we are bound there now. The proposition now brought before the Senate in the convention which Colombia submits to us as the description and basis of her future relations with the United States requires us to go very much further and to enable her to put these chains and rivets more tightly upon the limbs of Panama than we have heretofore done, and we have done very much in that direction.

On page 514 of volume 8 of his history Bancroft says:

Civil war broke out in 1831. Colonel Alzuru, who had arrived from Guiaquil with troops, by the instigation of some prominent men rose in arms in Panama to detach the provinces from Nueva Granada. On the news reaching Bogota the National Government dispatched Col. Tomas Herrera with a force to quell the rebellion, and upon his approaching the city the more prominent families fled to the island of Taboga. Those who had prompted Alzuru's act now forsook him and rendered aid to Herrera, with all the information they possessed. The rebels were attacked on their way to La Chorrera while crossing marshy ground and defeated. Alzuru was taken prisoner, tried by court-martial, and shot in the Cathedral plaza of Panama.

Gen. Jose Fabrega restored order in Veragua and made it known to the general Government on the 30th of August, 1831. The garrison at Panama, together with Tomas Herrera, the comandante-general, assured the president of the Nueva Granada convention of their unswerving fealty. Later, in March, 1832, an attempt was made by two subalterns to induce the sergeants of their battalion to join them in a conspiracy for upsetting the government.

The two officers were tried and executed and two of the sergeants sent into exile. Chaos reigned throughout the Republic in 1840; then came revolution. The chief men of Panama met in a junta and resolved to detach the Isthmus and form an independent republic.

It is the second time they tried that. On pages 515 and 516 he says:

The Government had carefully avoided the commission of any act of hostility against Nueva Granada; but the time came when news reached Panama that the government of Bogota was fitting out a force to bring the Isthmus into subjection. Whereupon the officers of the British chargé d'affaires at Bogota were asked to obtain the consent of Nueva Granada to receive a commissioner in the interest of peace.

But the other parts of Nueva Granada having become pacified in the course of 1841, two commissioners came from the General Government, and the people of Panama, being convinced of the folly of resistance, peacefully submitted. Herrera so managed that he was appointed governor of the restored province. The constitutional reforms of 1842 and 1843 tended to reestablish good understanding between the provinces, and Panama again appeared satisfied with the connection.

But the dread of a renewal of the insurrection caused New Granada to seek the protection of the United States. Almost immediately after we had guarantied the sovereignty of New Granada over Panama, in 1846–1848, the following events show the contempt in which the people of Panama held our intervention.

Bancroft says, pages 516 and 517:

The Canton de Alange, detached from Veragua, and the districts of David, Bolega, San Pablo, and Alange were, on the 24th of July, 1849, formed into a separate province under the name of Provincia de Chiriqui, with its governor and assembly of 7 members.

This organization continued several years, though the province subsequently took the name of Fabréga and so continued until August, 1851, when it resumed the former name of Chiriqui. The territory which in early days was embraced in the province of Veragua appeared in August, 1851, divided into three provinces, each having a governor and legislature, namely, Chiriqui, Veragua, and Azuero. This new arrangement lasted only till April 30, 1855, when the province of Azuero was suppressed.

On pages 518, 519, 520, 521, and 522 Bancroft says:

On the 26th of January, 1854, the consuls of the United States, France, Great Britain, Brazil, Portugal, Denmark, Peru, and Ecuador addressed a protest to the governor of Panama against the neglect of his Government to afford protection to passengers crossing the Isthmus, notwithstanding that each passenger was made to pay the sum of $2 for the privilege of landing and going from one sea to the other. Gov. Urrutia Anino, on the 14th of February, denied the alleged neglect, as well as the right of those officials who had no recognition from the New Granadan Government to address him in such a manner.

He pointed to the public jail, which was full of prisoners, some already undergoing punishment and others being tried or awaiting trial. He also reminded the consuls that only a short time had elapsed since three men were executed for crimes. It was a fact, nevertheless, that the Government could not cope with the situation, the Isthmus being infested with criminals from all parts of the earth, that had been drawn thereto by the prospect of plunder, in view of which a number of citizens and respectable foreigners combined in organizing the Isthmus guard, whose chief was Ran Runnels, charged with the duty of guarding the route between Panama and Colon, and empowered to punish, even with death, all persons guilty of crimes. Urrutia Anino, the governor, unhesitatingly acquiesced in the arrangement.

Americans had occasional misunderstandings with the authorities, a notable one occurring in 1855, when the local governor of Panama returned unopened an official letter from the consul of the United States, who at once threatened to strike his flag; but the matter was settled amicably by the chief officers of the Isthmus. A more serious affair was the demand of the State Government that steamships arriving at Panama and Colon should pay tonnage money. This raised the protest of the American consul and the railway and steamship agents. The controversy was finally terminated by the Executive of the Republic declaring that the law under which the tonnage money was claimed had been enacted by the State of Panama, without any right to legislate on such matters, as they were of the exclusive province of the general Government.

The lack of protection, as well as a marked spirit of hostility on the part of the lower class toward foreigners, was made further evident in the riot of the 15th of April, 1856, when a considerable number of American passengers were killed and others wounded, much property being also appropriated.

Consequent to this affair the city of Panama, which, owing to the misgovernment of previous years, was already on the decline, had to suffer still more. Many business houses closed their doors, because the American transient passengers, who during their stay were wont to scatter gold, thenceforth remained on shore only a few minutes. Much diplomatic correspondence passed between the American and New Granadan Governments on the subject, the former sending a commissioner to Panama to investigate the circumstances, and finally claiming a large indemnity.

At last a convention was concluded on the 10th of September, 1857, between Secretary Cass and Gen. P. A. Herran, minister of New Granada, for the settlement of all claims, the latter having acknowledged the responsibility of his Government for the injuries and damages caused by the riot.

The relations with Americans on the Isthmus continued to be unsatisfactory for some time longer. Notwithstanding that New Granada was apparently inclined to cordiality, cases of injustice or ill-treatment to American citizens often occurring, at last the President of the United States asked Congress, on the 18th of February, 1859, for power to protect Americans on the Isthmus. In later years Americans have seldom had any serious cause of complaint.

Bancroft describes the situation in 1854, page 525, as follows:

Nevertheless, the white population of Panama had been for some time past discontented with the General Government, and a desire had sprung up to get rid of a yoke which was deemed oppressive. The supreme authorities at Bogota were not aware of this, and whether prompted by the fear of losing the territory or by a sentiment of justice, or by both, concluded to allow the Isthmus the privilege of controlling their local affairs, which was hailed with joy by all classes.

An additional clause to the national constitution was then enacted by the New Granadan Congress on the 27th of February, 1855, by which Panama was made a State, and a member of the confederation, with the four provinces of Panama, Azuero, Chiriqui, and Veragua, its western boundary being such as might come to be fixed upon by treaty with Costa Rica. A constituent assembly of 31 members was convoked March 13 by the national executive, to meet at Panama on the 15th of July, to constitute the State.

The situation in 1855 he describes as follows (pp. 526 and 527):

A misunderstanding having occurred between the Jefe Superior and the assembly, the former resigned his office on the 28th of September, and having insisted on his resignation being accepted, Francisco Fabrega, who had been elected vice-governor on the 22d, was inducted into the executive office on the 4th of October.

Notwithstanding the hopes of a bright future, from this time the Isthmus was the theater of almost perpetual political trouble, and revolution became chronic, preventing any possible advancement. In 1856 there was a stormy electoral campaign that culminated in a coup d'état, for which the responsibility must be about equally divided between the executive, Francisco Fabrega, and the demagogues.

On pages 528, 529, and 530 he says:

Another outbreak of the negroes against the whites took place on the 27th of September, 1860, necessitating the landing of an armed force from the British ship *Clio*, which, after order was restored, returned on board.

This contest, out of which the liberal party came triumphant throughout the country, was known as "la revolucion de Mosquera." The minister of Nueva Granada in Washington, on the plea that a mere naval force could not afford security to the Isthmus transit, asked the United States to provide also a land force of 300 cavalry, but the request was not granted.

The efforts of Guardia to keep the Isthmus out of the general turmoil were of no avail. A force of about one hundred and fifty or two hundred men under Gen. Santo Coloma came from Cartagena to Colon with the apparent purpose of enabling the governor to carry out certain liberal measures. The latter protested against such a violation of a solemn agreement; but the force insisted on coming across to Panama, and there was no way of preventing it. In the course of a few weeks Guardia, being convinced that he was being employed as a puppet, removed himself from the capital to Santiago de Veragua.

As soon as he was gone, with the connivance of Santa Coloma, a party of men, all but one of whom were of the colored race, assembled at the town hall and deposed Guardia, naming one of their own party, Manuel M. Diaz, provisional governor. A few days after, on the 19th of August, in a skirmish between forces of the two factions, Governor Guardia and two or three others were killed.

In 1865 the situation is described as follows (pp. 534–535):

Olarte's election is represented as an enthusiastic one, and intended as a reward for the services he rendered to the better portion of the isthmian community, with his defeat of the caucano invaders (white invaders).

He found himself in a constant disagreement with the legislature of the State, which he forced to submit to his dictation. The whole negro party of the arrabal was his mortal enemy, but he managed to keep it under by making it feel occasionally the effect of his battalion's bullets. In the last attempt against his power the negroes were severely punished, and they never tried again to measure strength with him. His power was now more secure than ever, and his way became plain to procure the election, as his successor to the presidency, of his brother, then residing in Chiriqui.

The negroes were in despair, as they could find no means of seizing the government. From the time of Guardia's deposal they had been enjoying the public spoils, and could not bear the idea of being kept out of them when their number was four or five times larger than that of the white men. The success of Olarte's plans would be the death of their aspirations, which were the control of public affairs, by ousting the whites, who were almost all conservatives. It became, therefore, a necessity to rid the country of that ogre; and as this could not be done by force of arms poison was resorted to.

The plan was well matured and carried out in San Miguel, one of the Pearl Islands, where Olarte went on an official visit. Olarte's death occurred on the 3d of March, 1868, without his knowing that he had been poisoned. This crime was not the act of one man, but of a whole political party, which took care to have the death attributed to a malignant fever. It became public, however, through the family of another man, who also became a victim. No official or post-mortem examination was made, and the matter was hushed up.

Armed conflicts between the political parties were frequent in 1872 and 1873, with severe fighting, so that the United States was compelled to interfere. Bancroft says (pages 539 and 540):

The pichincha (battalion of national troops) interfered to restore Neira. After some firing it was agreed that Cervera should continue in power and Neira remain in the custody of the national force.

The national force having taken part in the troubles, its efficiency to protect the transit was rendered doubtful, for which reason troops were landed from the United States ships of war by order of Rear-Admiral Steedman. Finally, terms of peace were arranged in the evening of May 9, based on the conditions that Neira's government should be reestablished. The State militia surrendered their arms to the foreign consuls the next day, the pichincha performing the duties of the state force.

Meantime, till Neira's return, Col. Juan Pernett was to act as President. Neira heard of the change at Barranquilla on the 13th of May and returned at once. On the 21st he made Jose Maria Bermudez secretary of state and Colonel Pernett comandante general. The votes for senators and representatives to the National Congress were counted on the 15th of July, and the names of the elect were published.

The people of the arrabal made another disturbance on the 24th of September, attacking the Government outposts at Playa Prieta. Hostilities were continued during twelve or fourteen days, when the rebels under Correoso abandoned their ground and were afterwards defeated in the country. Meantime an American force of nearly 200 men, sent on shore by Rear-Admiral Alony, a second time within four months, occupied the railway station and the cathedral plaza.

The minister resident of the United States, William L. Scruggs, on the 19th of December, 1873, laid before the Colombian Government, of which Colunje was secretary of foreign affairs, a protest of the Panama Railway Company upon the recent disturbances of the Isthmus, and a demand that the transit should in future be under the immediate protection of the Colombian Government against the acts of violence of local factions. The latter acknowledged the justice of this demand on the 26th of December, pledging that in future there would be a national force stationed in Panama for the purpose of protecting the transit.

He thus describes the situation in 1876:

The presence of federal forces on the Isthmus had often been a source of danger to the State Government. But it was required by international obligation, and its necessity could but be recognized in view of the fact that the construction of the interoceanic canal, already under way, demanded the employment of thousands of men from all parts of the world, who in the event of strikes or other causes might commit outrages.

Constant strife continued through the years until 1885, when Bancroft describes the situation as follows (pp. 550–551):

The Isthmus now becomes again the theater of deadly strife, with its concomitant bloodshed and general destruction, to the disgrace of the nation of which it forms a part, and the scandal of the world. A plot by some men of the national force to seize the revenue cutter *Boyaca* having been detected, thanks to the loyalty of other members of the same force, the executive notified the convention that the time had come to proclaim martial law, which he did on the 9th of February. The convention accordingly closed its session on the 11th.

On the 17th Santodomingo Vila obtained a leave of absence to proceed to Cartagena, where his military services were required, and Pablo Arosemena, the first designado, was summoned to assume the executive authority. At about 5 o'clock on the morning of the 16th of March the population was awakened by the cries of "Vivan los liberales! viva el General Aizpuru!" accompanied with numerous shots. Aizpuru, at the head of about 250 men, attacked the cuartel de las Monjas and the tower of San Francisco, which was defended by a handful of Government troops, and a running fight from corner to corner ensued.

The assailants overran the city. The British war ship *Heroine* then landed some marines and sailors to protect the railroad. The President called for troops from Colon, which came at once under General Gonima, and, entering the city on the 17th, compelled the portion of the revolutionists who had remained in the city to rejoin their main body in the plains.

The following description of the events of March 29, 1885, give a correct idea of the feeling toward Americans existing all the while since the landing of marines by Rear-Admiral Alony, in September, 1873, pages 552, 553, 554, 555:

On the 29th of March the American mail steamer *Colon* arrived at the port of the same name from New York, and the Government directed that she should not deliver arms to the rebels. This gave rise to most high-handed proceedings on the part of Prestan, culminating in the arrest by his orders of the American consul, Mr. Wright; Captain Dow, general agent of the steamship line; Connor, the local agent at Colon; Lieutenant Judd and Cadet Midshipman Richardson, of the United States war steamer *Galena*.

Soon afterwards Richardson was released and sent on board the *Galena* to tell his commander, Kane, that the other prisoners would be kept in confinement till the arms were surrendered, and if the *Galena* attempted to land men or to do any hostile act the boats would be fired upon, and every American citizen in the place would be shot. Kane, knowing Prestan's character, did not attempt any hasty act. Prestan then went to the prison and told Consul Wright that he must order Dow to deliver the arms or he would shoot the four prisoners before that night. Wright complied, and they were set at liberty.

But Kane took possession of the *Colon*, and in the night landed a force and three pieces, under Lieutenant Judd, with orders to release at all hazards Dow and Connor, who had been again imprisoned. No sooner had the Americans occupied the offices of their consulate and of the railway and Pacific Mail companies than a force of Colombian national troops came on, driving the rebels before them into the intrenchments.

During the whole morning the firing was kept up, and ended about 12 noon when the rebels were routed; Prestan and his rabble set fire to the town at various places and fled. A strong wind blowing, the flames spread violently, and the town was consumed with all its contents. The American forces continued some days longer holding the place, Commander Kane's authority being recognized, and the Colombian officers cooperating with him in the preservation or order.

Prestan was captured, taken out to sea in an open boat, and drowned. He was thrown overboard with a weight attached to his body.

But to return to Panama, Aizpuru took advantage of the situation, Gonima being left with only 60 soldiers and a few civilians that had joined him to occupy the principal streets on the 31st. To make the story short, by 3 o'clock in the afternoon he was master of the place, Gonima having surrendered.

Aizpuru announced in a proclamation on the 1st that he had assumed the functions of jefe civil y militar, to which he had been called by the supporters of free political principles, and on the 4th appointed his advisers and adopted measures to protect the city from incendiarism, and especially to guard the interoceanic transit.

Marines and sailors having been landed on the 8th of April from the United States frigate *Shenandoah*, by Aizpuru's request, both ends of the Isthmus were on the 10th guarded by American forces. Soon after the United States

sent reenforcements of marines and sailors with special instructions to protect the transit and American citizens and their interests, avoiding all interference in the internal political squabbles. Several war vessels of the United States home squadron, under Rear-Admiral Jouett, arrived at Colon.

In the night of the 24th of April, while the revolutionists were erecting barricades—against an understanding with the American commander—the marines under Commander McCalla took possession of the city as a necessary measure to protect American property, and Aizpuru and others were arrested. However, on the next day, Aizpuru having pledged himself not to raise barricades or batteries, the prisoners were released and the Americans retired to their encampment outside.

Aizpuru was one of the persons who offered to defeat the federal forces and annex Panama to the United States, if we would advance him the money to conduct his campaign.

The general situation is thus stated by Bancroft, pages 556, 557, and 558:

After the death of President Olarte, in 1868, the Isthmus for many years did not enjoy a single day of peace. The general wealth having declined throughout the country and more so in the interior; poverty prevailed. Capital, both foreign and native, abandoned so dangerous an abode. The cattle ranges and estates disappeared; likewise agriculture, except on a small scale.

The black men of the arrabal in the city of Panama, after they were made important factors in politics, accustomed themselves to depend on the public funds for a living, and the people of the interior, who were always peaceable and industrious, came to be virtually their tributaries. The State became the puppet of the men at the head of the national Government, or of political clubs at Bogota, whose agents incited disturbances, removing presidents indisposed to cooperate with or to meekly submit to their dictation, substituting others favorable to their purposes, and thus making themselves masters of the State Government, together with its funds, and with what is of no less import, the State's vote in national elections.

Since the establishment of the constitution of 1863, Panama has been considered a good field by men aspiring to political and social position without risking their persons and fortunes. They have ever found unpatriotic Panamenos ready to aid them in maintaining the quondam colonial dependence and investing them with power that they might grow fat together on the spoils. Almost every national election since the great war of 1860 has brought about a forced change in the State Government. The first victim, as we have seen, was Governor Guardia, deposed by national troops under Santo Coloma.

That was the beginning of political demoralization on the Isthmus. Every similar alleged device to insure party triumph and power at Bogota has been, I repeat, the work of agents from the national capital, assisted by men of Panama, to push their own interests, and supported by the federal garrison.

The office of chief magistrate is desired for controlling political power, and the public funds to enrich the holder and his chief supporters. Patriotism and a noble purpose to foster the welfare of the country and the people in general are, if thought of at all, objects of secondary consideration.

At times the presidency is fought for with arms among the negroes themselves, and the city is then a witness of bloody scenes. The aim of every such effort is to gain control of power for the sake of the spoils.

Panama can not, being the smallest and weakest State of the Colombian union, rid itself of the outside pressure. Neither can it crush the unholy ambition of its politicians. Both entail misfortunes enough. But the Isthmus must also share the same sufferings as the other States in times of political convulsion in the whole nation.

Bancroft closes his history of political and social conditions in Panama with a question that sets aside the proposal of Colombia for the joint control of a canal belt through the heart of that State by Colombia and the United States as a suggestion that is scarcely less than reckless folly.

On page 558 he says:

What is to be the future status of the Isthmus? A strong government is doubtless a necessity, and must be provided from abroad. Shall it assume the form of a quasi independent state under the protectorate of the chief commercial nations, eliminating Colombia from participation therein, or must the United States, as the power most interested in preserving the independence of the highway, take upon themselves the whole control for the benefit of all nations? Time will tell.

In this connection I will state, on authority that I know is thoroughly informed and credible, that Nunez, President of the Republic of Colombia, seriously proposed to sell Panama to the United States; and an ex-governor of Panama approached the minister of the United States with an offer to accept a loan of about $300,000, to be used in the establishment of the independence of Panama, when it would offer annexation to the United States.

The relations between Colombia and the State of Panama have been strained to the point of dissolution since 1862, and that is the cause of the reduction of Panama from sovereign statehood to that of a department in the present Republic of Colombia, and is now under a governor appointed by the President of the Republic.

The evidence taken by the Committee on Interoceanic Canals shows the same state of affairs in Panama, which these authentic historical statements fully verify.

The proposition of Colombia to make a lease of canal privileges at Panama to the United States brings into view at once the character of the people we are to deal with in the construction and control of such a canal and the provisions of the proposed convention under which we are to deal with them.

Having shown the character of those people by the highest historical authority, we must inquire as to the probability or possibility of being able to construct and control a canal in their midst with safety and success under the terms of the proposed convention as to their Government, at least within the limits of the canal zone.

This political history which has characterized Panama for three-quarters of a century is due to the peculiar and low grade of its population and to its isolated geographical position.

It has no valuable commercial or social relations with the other States of Colombia, and must always be a political appendix to that Government. Colon is at least fifteen days' travel from Bogota by the shortest and most rapid route of travel.

Mr. Bancroft is right when he says that it will require a strong government to control that native population of more than 100,000 in the State of Panama and the hordes of laborers and adventurers that inhabit the valley of the Chagres and Panama.

Such a divided authority as is proposed in the convention submitted for our acceptance by Panama would soon lead to the overthrow of useful government in the vicinity of the canal line and in the cities at its terminals, with such a mixed and turbulent people to be controlled.

When there is added to that difficulty the delicate and hazardous care that is to be given to a great ship canal and the commerce that is to pass through it, a divided jurisdiction is at once rejected by common sense as being outside of all reasonable hope of success.

To build a canal in such a country, with cities at both ends that are not under our control as to police powers, supported by judicial authority, or in the exercise of military power, only when Colombia shall from time to time give her consent, would be a most hazardous undertaking. We would be there only a short time until we would be compelled to assert sovereign authority over the department of Panama, contrary to our treaty pledges to protect Colombia in her sovereignty. This would lead to war, and war would lead to annexation, and that would violate our national honor pledged to Great Britain and to the whole world, in the Hay-Pauncefote treaty, as to the neutrality of the canal when the sovereignty over that country is in the United States. That could never be.

But, above all, it would poison the minds of the people against us in every Spanish-American Republic in the Western Hemisphere, and set their teeth on edge against us, to annex Panama. Besides, it would tarnish our national honor to enter Panama under the pledge that our purpose is to build a canal and follow it with the annexation of Panama; and no actual necessity for annexation, however imperative it may be, would ever excuse or palliate that result, in the opinion of the Spanish-American people. If this is to be, or if it may be, as a necessity for the protection of the canal, it would be the most dangerous national pitfall into which we could plunge.

We can purchase Panama from Colombia for less than $40,000,000 if we were base enough to make the bargain, and let the Panama Canal Company work out their concession, which would then be under our control, if they can do so, or forfeit it if they can not complete the canal. I do not by any means advise or tolerate such a course, but I can not refuse to see that it would be easily practicable, and if we know, as we must, that the United States will be forced to annex Panama, as the only means of preserving our property, and almost unavoidable, if we build the canal under the convention proposed by Colombia.

Wisdom, honor, and public faith require that we should even purchase Panama rather than enter upon a plan that will force the United States to exercise sovereign jurisdiction over the canal and railroad through the necessity of providing for their protection.

If we intend to assume an attitude that will compel us to control the canal as a sovereign in order to protect it, let us buy the country and build the canal or let the Panama Canal Company build it under the existing concession.

If we chose to be false to our obligation (a very peculiar one, I admit) to keep Panama subject to the sovereignty of Colombia, without regard to the right or humanity of such an engagement, there is no doubt that Panama would eagerly seek protection under the folds of the flag of the United States to escape the sort of rule that Colombia would impose upon her, through our pledged assistance. I can understand how the United States can pledge her protection to a sovereign state against a foreign country that invades it, but I can not understand how a pledge of protection for the sovereignty of a state over one of its departments can be just or lawful, since it is a pledge to interfere in the national affairs of a state.

If Colombia should oppress Panama would we protect her against the revolt of the people of Panama on account of such wrongs? If we did so protect Colombia against such a revolt we would be interfering in her internal affairs, and if we did not compel the submission of Panama, without reference to her wrongs or sufferings, we would violate our treaty obligations to Colombia. It is a dangerous situation, in which Colombia can compel us to aid her in the oppression of her own people, and it is this that the proposed convention pledges us to do.

There is little doubt that Colombia would get rid of this thorn that has rankled in her bosom for sixty years and is now fighting

her with gallant and determined energy if we would pay her the $40,000,000 we are asked to vote to the Panama Canal Company for a canal that it is not able to complete, and that France will not aid it to complete. With a claim of title that is strong enough only to excite discussion among the lawyers and to promote speculation among stock gamblers, and with a reputation that the Isthmian Canal Commission has stamped as criminal, in its final report to the President, we would purchase troubles and evils that we can neither foresee nor provide against if we purchase the Panama Canal.

If we must encounter these adverse and disreputable conditions in order to get a canal, let us clear the field of all doubt and all reproach by the annexation of Panama, for it will come to that at last. When we see that such a result will necessarily follow the plan of the proposed substitute, why should we hesitate to provide for it at the outset?

Taking into view only the chronic condition of political disturbance between Panama and Colombia, it is impossible for us to anticipate anything but a continuance of those conditions in the future unless we change them by the strong arm of sovereign power.

Under the proposed arrangement as provided in the substitute before the Senate and by the proposed convention we are compelled to choose one of three alternatives. We must compel the absolute subjection of Panama to Colombia or we must take sides with her and make her independent, or else we must make Panama a part of or a dependency of the United States.

The Liberal or antichurch party in Colombia and in adjoining republics is engaged in bitter strife and active hostilities against Colombia. It was this situation that caused the peculiar and offensive provision of Articles III and IV of the proposed convention with Colombia, copied in Appendix A to the report of the committee, as follows:

ARTICLE III.

All the stipulations contained in article 35 of the treaty of 1846-1848 between the contracting parties shall continue and apply in full force to the cities of Panama and Colon and to the accessory community lands within the said zone, and the territory thereon shall be neutral territory, and the United States shall continue to guarantee the neutrality thereof and the sovereignty of Colombia thereover, in conformity with the above-mentioned article 35 of said treaty.

In furtherance of this provision there shall be created a joint commission by the Governments of Colombia and the United States that shall establish and enforce sanitary and police regulations.

This and the memorandum prefixed to the draft of the convention renews all our obligations of the guarantee of the sovereignty of Colombia over Panama and her right of property in that State.

Not content with that, and moved by the present belligerent attitude of the people of Panama, Colombia makes this further demand in Article IV:

ARTICLE IV.

The rights and privileges granted to the United States by the terms of this convention shall not affect the sovereignty of the Republic of Colombia over the territory within whose boundaries such rights and privileges are to be exercised.

The United States freely acknowledges and recognizes this sovereignty and disavows any intention to impair it in any way whatever or to increase its territory at the expense of Colombia or of any of the sister republics in Central or South America, but, on the contrary, it desires to strengthen the power of the republics on this continent and to promote, develop, and maintain their prosperity and independence.

The guaranty of protection given in the treaty of 1846–1848 to Colombia over Panama is stated by the Panama Canal Company to be one of its valuable assets under the concessions made to it by Colombia. It is its most valuable asset, since Colombia, unaided, can not protect that canal from seizure by the people of Panama.

Panama was degraded from a State to a department by Colombia, and the proposed convention pledges the United States to confirm that act, which excites the rebellion of Panama, and will make those people our relentless enemies. It then proceeds to pledge the United States to "strengthen the power of the republics on this continent," including Colombia. Thus we are to be involved in pledges made to every republic in South America.

There can be no mistake as to these purposes, and none as to the offensive and derogatory declaration that the United States disavows any intention to impair the sovereignty of the Republic of Colombia over Panama "in any way whatever, or to increase its territory at the expense of Colombia or of any of the sister republics in Central or South America."

This provision, no doubt, was also intended to prohibit the United States from acquiring exclusive canal rights in Nicaragua and Costa Rica under the offensive admission that, but for such a pledge, our purpose and policy toward the Central and South American republics is to increase our territory at their expense.

The unpublished records of the State Department contain accounts of overtures from Colombia to sell Panama to the United States, and overtures from Panama for annexation to the United States, unless those records have been lost or destroyed, but such is the fact, but the overtures fell upon unwilling ears. We are now bound to sustain Colombia as sovereign and owner of Panama against any wrong or depredation she may inflict upon these States.

Colombia is in no situation to demand from the United States the disavowal of any intention to increase our territory at her expense, while we have kept our pledges to her at great expense and trouble to our Government. But those articles, 4 and 5, are part of a plan for the joint government of the canal zone by the United States and Colombia through joint commissions and the exclusive government of the cities of Panama and Colon and of all territory outside that zone by Colombia.

Inside the zone all sanitary and police regulations are to be made by a joint commission and "established and enforced" by them. The joint government of the canal zone, as to the regulations for police and sanitary purposes, and as to their enforcement, comprehends everything relating to the preservation of the public peace and the public health that could be enforced by sovereign authority.

These essential matters, that are indispensable to canal construction, regulation, and management, are the points where governments come most directly in contact with the people. A joint government in such matters is an impossible situation unless one of the governments has the mastery over the other.

Under this convention, if it should be accepted by the United States, Colombia being the only sovereign power that is recognized as existing there, its will would give supreme control and direction to the joint commission.

It is inconceivable that a peaceful administration of such power could be conducted in the midst of such a population, or that we could escape war with Colombia on the first serious disagreement as to the government of the canal zone.

With such places as Colon and Panama outside the canal zone, yet with Colon between the canal and the ocean and Panama on the margin of the zone, it would be impossible to execute quarantine or police regulations without constant conflicts with those people, and they would inevitably lead to war.

This situation, created by Article IV of the proposed convention, is greatly aggravated by Article XIII, which leaves all the powers to dispose of controversies, civil and criminal, to be determined after the convention is ratified. Then the sovereign of the canal zone will exert its powers to prescribe "regulations," if they are not agreed upon, "to protect and make secure the canal as well as the railroad and other auxiliary works, and to preserve order and discipline among the laborers and other persons who may congregate in that region in consequence of the proposed work."

ARTICLE XIII.

The Governments of Colombia and the United States shall agree upon the regulations necessary for said purpose, as well as to the capture and delivery of criminals to the respective authorities. Special regulations also shall be agreed upon, in the manner aforesaid, for the establishment of laws and jurisdiction to decide controversies that may arise respecting contracts relative to the construction and management of the canal and its dependencies, as well as to the trial and punishment of crimes that may be committed within the said zone of the canal.

"The establishment of laws and jurisdiction to decide controversies that may arise respecting contracts relative to the construction and management of the canal and its dependencies" is the most important function of government that relates to the building of the canal and its ownership, control, and management.

There is no feature of this proposed convention that the United States could yield to the joint or separate control of Colombia with so little safety as this. No "special regulations" or general regulations can ever be adopted under which Colombia can participate in the creation of laws and jurisdiction to decide controversies respecting "contracts for the construction and management of the canal and its dependencies."

It would be a national humiliation and degredation to permit any country to unite with us in making laws and creating jurisdictions to decide as to contracts relative to the construction and management of a canal with our own means.

If such an arrangement could be possible, it should be made absolutely certain by the terms of the convention before it is ratified. Leaving such provisions open to future arrangement and definition is only to invite contention which will end in controversy and lead to war.

The probabilities of rupture and conflict between the United States and Colombia are greatly increased—indeed, they are inevitable—under Article XXIII of the proposed convention, as follows:

ARTICLE XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the canal, or of the ships that make use of the same, or the railways and other works, the Republic of Colombia agrees to provide the forces necessary for such purpose, according to the circumstances of the case; but if the Government of Colombia can not effectively comply with this obligation, then, with the consent of or at the request of Colombia, or of her minister at Washington, or of the local authorities, civil or military, the United States shall employ such force as may be necessary for that

sole purpose; and as soon as the necessity shall have ceased will withdraw the forces so employed.

Under exceptional circumstances, however, on account of unforeseen or imminent danger to said canal, railways, and other works, or to the lives and property of the persons employed upon the canal, railways, and other works, the Government of the United States is authorized to act in the interest of their protection, without the necessity of obtaining the consent beforehand of the Government of Colombia; and it shall give immediate advice of the measures adopted for the purpose stated; and as soon as sufficient Colombian forces shall arrive to attend to the indicated purpose those of the United States shall retire.

The necessity of employing armed forces to protect the canal and the railroad at Panama has existed on many occasions during the past fifty years, and has cost us heavily for naval expeditions to both coasts of Panama, and now we have war ships at Panama and at Colon for that purpose.

In every instance the cause of disturbance has been political, and in the majority of cases has been the result of the dissatisfaction of the people of Panama with the Government of Colombia. Such is the case in the present war, which has lasted for nearly two years.

Colombia has no power under the treaty of 1846–1848, which is the authority for our action, to dismiss our forces or to order them away from Panama when her troops have appeared on the scene of action. But that right is distinctly, arrogantly, and offensively reserved in Article XXIII of the proposed convention; that is to say, that while we are defending the sovereignty of Colombia over Panama and the canal and railroad that belongs to the Panama Canal Company and to Colombia we can remain at our post of duty until we consider that our full duty has been performed; but when we enter upon the defense of a canal that we have built and a railroad that we have bought, "as soon as sufficient Colombian forces shall arrive to attend to the indicated purpose those of the United States shall retire."

That is a situation that places the canal and the railroad under the exclusive military control of Colombia, at her option; and when such a power is once used by Colombia it will not be relaxed until it is wrested from her by force.

It is quite unnecessary to discuss a proposal that is certain to produce armed conflict whenever the occasion may present, or to characterize the absurdity of the attitude of Colombia in demanding our protection of the canal and railroad, under the treaty of 1846–1848, while they are in possession of the French and are under her protection, and that we shall desist, at her bidding, from protecting them, when they have become the property of the United States. If, in the history of diplomacy, a more absurd proposition was ever advanced, it must have been insincere, or else it must have proceeded from a conqueror to some beaten enemy as the terms of a capitulation.

I will not now go into a further examination of the many reasons why this proposed convention can not furnish the safe basis of concessions from Colombia. My first purpose and duty, as I think, being to show that the existing conditions in Panama are such as to warn us off from that dangerous ground and that these conditions are made still more dangerous by the terms of the proposed convention. I also wish to point out that this convention can not be sanctioned or recommended by Congress as being respectful to the Government of the United States.

If the provisions of this proposed convention are connected with the letters of its advocate to the President and the Secretary of State, as shown in the former reports of this committee and in the deposition of H. Lampre, it will be seen that it only completes a scheme of the attorney of the Panama Canal Company to defeat legislation in favor of the Nicaraguan Canal route and that many astute devices have been contrived for the purpose.

I do not intend now to discuss that feature of the transaction. I think enough has been shown, aside from the questions of engineering, health, commercial value, military and naval advantages, and cost, that will be more fully examined by others, to show that, under the concessions proposed by Colombia, or under the political conditions existing in Panama, it is impossible that the United States can undertake to purchase and complete the Panama Canal. That it will not only embroil us with Panama, Colombia, and, possibly, with other American republics, but that it will plunge the entire canal question in a darker cloud of doubt and uncertainty than that from which it has so recently been relieved, after a struggle of a half century of sickening delay.

If the amendment offered as a substitute to the House bill is intended to carry into effect the convention proposed by Colombia and sent to Congress by the Secretary of State as an official document, it will be seen on even a slight examination that it is not by any means suited to accomplish that purpose.

The substitute and the proposed convention are in direct conflict in many points. The substitute was offered in the Senate and reported upon by its committee before the draft of the convention was presented to the Secretary of State. They are entirely independent and entirely repugnant propositions.

There is no proposition before the Senate to accept the proposed convention and enact it into law. Indeed, such acceptance is impossible, according to its terms, because it can only be binding on Colombia after the congress of that Republic has authorized the concessions it proposes to make.

If, therefore, the substitute is enacted by Congress, it can only mean delay until it can be seen whether Colombia will change her offer of concessions to conform to the requirements of the substitute.

It will change the whole current of legislation into an offer of terms by the United States to Colombia as to the concessions to be acquired, which Colombia has already notified us that she will not accept.

Such a movement, if it is not intended for delay, can produce no other result than the defeat of all canal legislation.

The substitute recommended by a minority of the committee for the House bill reported by the majority does not leave the choice of canal routes to the judgment and discretion of the President.

The President can not acquire "control of the necessary territory from Costa Rica and Nicaragua for the construction, maintenance, operation, and protection of a canal by the Nicaragua route" until he has made the effort and is "unable to obtain for the United States a satisfactory title to the property of the New Panama Canal Company and such control of the necessary territory of the Republic of Colombia, mentioned in sections 1 and 2 of this act, within a reasonable time and upon reasonable terms."

"Then the President" shall take up the Nicaragua route and proceed to obtain the control of it.

I suppose this statement of the provisions and purposes of the substitute will not be questioned or denied.

Mr. MITCHELL. If the Senator will allow me, not only that, but if the officers of the Government to whom is remitted the question as to whether a satisfactory title can be had at Panama report in the affirmative, then the hands of the President are bound. He is bound, then, to build the canal at Panama, paying those people $40,000,000, whether he thinks it is the better place or not.

Mr. MORGAN. It can hardly be that Congress would require the President to make a contract with Colombia and at once violate it by making a contract in similar or identical terms with Costa Rica and Nicaragua for the control of territory in those States.

The test of the question as to the meaning of the proposed substitute to the House bill is conclusive when the question is asked, Can the President reverse the prescribed order of proceeding and first make the effort to acquire the control of the Nicaragua route, and that he shall only attempt to acquire the control of the Colombia route when that effort has failed?

The President would violate the law, if this substitute is enacted, if he should conclude an agreement with Nicaragua and Costa Rica, without having first made an effort to agree with Colombia. This plan of dealing with this subject is wholly at variance with the popular notion that this proposed substitute leaves the choice of routes to the untrammeled judgment and discretion of the President. There is no such provision and there is no such purpose in the bill.

Mr. SPOONER. It was not intended that there should be.

Mr. MORGAN. I suppose not. It was intended to compel Congress to decide first in favor of Colombia or against it.

On the contrary, it requires him to exhaust his efforts to acquire the route through Colombia, and if he finds himself unable to do this he is authorized to make an effort to acquire the control of the Nicaragua route.

If the substitute is adopted, the Colombian route is adopted as the choice of Congress, and the Nicaragua route is only a second or alternative choice, which the President is authorized to make if the first choice can not be satisfactorily obtained.

That this is the careful and well-guarded purpose of the substitute is shown by the fact that section 3 makes a specific appropriation of $40,000,000 "to pay for the property of the New Panama Canal Company," and to the Republic of Colombia such sum as shall have been agreed upon, and a sum sufficient for both said purposes is hereby appropriated.

The sum to be paid to the New Panama Canal Company is fixed at $40,000,000, and is payable upon the sole conditions that the President shall have obtained a satisfactory title to the property of the New Panama Canal Company, described in section 1 of the substitute, and the control of the necessary territory from the Republic of Colombia, as provided in section 2 of the substitute.

The property of the New Panama Canal Company is the only property or rights upon which a specific price is fixed and ordered to be paid. All the rest is left to be agreed upon by the President.

The New Panama Canal Company is the star performer in the drama, and when we have provided its compensation all other considerations become matters of minor concern.

The substitute fixes this sum of $40,000,000 upon the title of Colombia as an incumbrance, and instead of requiring her to remove it on the payment of that sum to her and requiring her to remove it and guarantee her title to the United States free of all incumbrance, we are to pay it off and take Colombia's title with no guaranty whatever that the title of the Panama Canal Company is free of incumbrance.

If the substitute is passed it authorizes the President to ascertain what is "the property of the New Panama Canal Company," and when he has done that he is authorized to obtain "satisfactory title" to that property of the company.

If it has "rights, concessions, grants of land, right of way, unfinished work, plants, maps, plans, drawings, records, and other property, real, personal, and mixed, which it owns on the Isthmus of Panama and in Paris, including 6,863 shares of the Panama Railroad Company," that is the property for which the President is authorized to pay $40,000,000.

If it has money or other stocks in Paris or elsewhere, the President is not authorized to claim or purchase that under this act, if the substitute is adopted.

No inventory of the property is provided for in the substitute, and no provision is made for ascertaining its description or value or whether the title is free from incumbrance. All the requirements of the law are complied with if he obtains "a satisfactory title to the property of the New Panama Canal Company." If that corporation is entitled to convey its property the title must be satisfactory. The property corresponding to the classifications in section 1 of the substitute, whether it is much or little, is to be paid for at the price of $40,000,000.

It does not bind the company to convey all its property of certain descriptions or to supply any inventory or memorandum of the items or any valuation of them.

It has been loudly heralded that this is a business proposition. If it is, it is time that our business methods were improved and that the star performer in the drama was required to come down to facts and figures.

Is Congress never to know more about this transaction than is disclosed on the face of this proposed substitute?

Is the unlimited discretion of the President in the expenditure of $40,000,000 for the property of which there is no description, except by classes, without reference to its actual value, to be covered only by his warrant on the Treasury without the scrutiny or approval of Congress? Such is "the business method" of this substitute.

This matter requires very careful examination, which I am not endeavoring to give to it, because I am only engaged now in presenting the questions to the Senate that arise on the House bill and the proposed substitute. I am only touching the promontory points of the counter project to the bill, which are plainly unsound and unsafe.

In this $40,000,000 gift to a corporation of France, under the guise of a purchase of property that inevitable bankruptcy induces them to sacrifice in order to divert the proceeds from their honest creditors into their own pockets, there is much circumspection necessary if we would not disparage the fair name of the United States by greedily seizing a proffered bauble, gilded with fine gold, but full of corruption.

The New Panama Canal Company never had a capital stock that exceeded 63,000,000 francs, or $12,300,000, and it claims to be the owner of properties of the old Panama Canal Company, valued by the new company at $109,000,000 in February, 1901, which cost the stockholders and bondholders of the old company more than $350,000,000. Some of the leading stockholders in the new company were compelled to take stock in it, and so to provide a life buoy for the old company, as a condonation of the frauds they had perpetuated on the old company. For these frauds some of them stood convicted in the courts and were released from punishment because they agreed to float the old company on the back of this new or reorganized company. But I will let the Isthmian Canal Commission tell that story in their own way.

In their final report they say:

> Six hundred thousand shares had been subscribed to be paid for in cash, and 50,000 shares were given as full-paid stock to the Colombian Government in compliance with the terms of the extension of the concession, dated December 23, 1890. Thus the cash capital of the company was 60,000,000 francs, or $11,640,000, a sum deemed sufficient for the provisional operations contemplated. The scandals connected with the failure of the old company, which had led to the prosecution and conviction of De Lesseps and other prominent persons, had made it difficult to secure even that amount.
>
> Suits had been brought against certain loan associations, administrators, contractors, and others who were supposed to have unduly profited by the extravagant management of the old company. A series of compromises were made with these persons, by which it was agreed that they should subscribe for stock in the new company on condition that the suits should be dropped. Whatever amount remained to make up the 60,000,000 francs, after deducting the sums thus obtained and those to be obtained by public subscription, was to be subscribed by the liquidator. The stock was subscribed as follows, viz:

	Francs.
Eiffel	10,000,000
Crédit Lyonnais	4,000,000
Société Générale	4,000,000
Crédit Industriel et Commercial	2,000,000
Administrators of the old company	7,885,000
Artigue, Sonderegger & Co	2,200,000
Baratoux, Letellier & Co	2,200,000
Jacob heirs	750,000
Couvreux, Hersent & Co	500,000
Various persons to the number of 60 who had profited by syndicates created by the old company	3,285,700
Hugo Oberndorffer	3,800,000
Public subscription	3,484,300
The liquidator	15,895,000
Total	60,000,000

> See fourth report of the liquidator to the court, dated November 26, 1895, pages 8, 9, and 13.
>
> The old company and the liquidator had raised by the sale of stock and bonds the sum of $246,706,431.68. The securities issued to raise this money had a face value of $435,559,382.80. The number of persons holding them is estimated at over 200,000.

The substitute for the House bill was prepared with a most optimistic conjecture as to what Colombia would propose in the way of concessions to the United States to induce us to complete the Panama Canal. The result is very disappointing to those who have $40,000,000 suspended on this speculation.

Section 2 of the substitute requires that the terms of the concessions from Colombia shall be such as the "President may deem reasonable."

The offer of Colombia is an annual rental of $500,000, of which $7,000,000 shall be paid in advance. The rental to be changed to a higher or lower figure, as shall be fixed by arbitrators at the end of fourteen years, and again at the end of one hundred years, but it is $500,000 a year. It will never be less; it may be more.

Fifty million dollars rent for one hundred years is scarcely reasonable for the use of the canal, when we have paid $180,000,000 to construct it, with interest and betterments to be added.

This demand is conclusive of the fact that Colombia does not want the canal, or that she thinks the United States is an easy victim of extortion.

The substitute demands "control in perpetuity" of a ship canal route through Colombia.

The Colombian convention concedes a lease for one hundred years, subject to the payment of rent and renewable at the end of that period for another hundred years, subject to such rent as then may be agreed upon or awarded by arbitrators.

The substitute demands that the canal zone shall be "a strip of land 10 miles wide from the Caribbean Sea to the Pacific Ocean," which would include the cities of Panama and Colon, besides much public land.

The Colombian convention includes a strip of land only 6 miles wide from the coast of the Bay of Colon to the coast of the Bay of Panama, which is 105 miles shorter than the strip required by the substitute, and from which Colon and the city of Panama are expressly excluded.

The substitute for the House bill, with wise forecast and the necessary provision for self-preservation, demands, even in case we should acquire only a controlling interest in the canal in a sort of coparcenery with Columbia, that the United States shall have "jurisdiction over said strip and the ports at the ends thereof to make such police and sanitary rules and regulations as shall be necessary to preserve order and preserve the public health thereon, and to establish such judicial tribunals thereon as may be necessary to enforce such rules and regulations." This well-devised but incomplete demand of rights that are indispensable to the safety of the canal and our control over it is broken through by the arrogant demands of the convention proposed by Colombia as a mogul engine would break through a wicker fence.

Instead of the exclusive police and sanitary jurisdiction of the United States in the canal zone, we are excluded from such jurisdiction in Colon and Panama city, and are required to establish and keep up waterworks in those towns during the life of the proposed lease. Within the canal zone police and sanitation and the laws that regulate them and the execution of those laws are to be provided by a joint commission appointed by the respective governments.

As to the "regulations necessary to preserve order and preserve the public health in the zone, and to establish such judicial tribunals thereon as may be necessary to enforce such regulations," the Colombian convention confides them to a joint commission to be appointed by the respective governments.

I am dealing only with the substitute for the House bill, and pointing out the havoc the Colombian convention has made in its requirements, and will in the course of my remarks point out the aggressions that Colombia proposes to make upon us which seem not to have entered into the imagination of the framer of the substitute, as no provision is made against them.

They evince an insolent and accusing temper against the United States that condemns that proposed convention to diplomatic contempt as a gratuitous impeachment of our national honor.

The shock of the conflict is so severe between the propositions of legislation stated in the proposed substitute to the House bill and the proposed convention of Colombia that I do not see how it is possible to reconcile them or to get these measures into harmony so as to make a friendly disposition of the $40,000,000 that the substitute to the House bill requires Congress to appropriate and to be paid to the New Panama Canal Company; and I think it certain that the American people will agree with the committee in the recommendation that our Government had better wash its hands of the entire scheme.

The alternative proposition of acquiring the right and of constructing the canal on the Nicaraguan route, as stated in sections 4, 5, and 6, is in substance the same as the provisions of the House bill now before the Senate. The difference between them is that, in passing the House bill, Congress would do its duty in selecting the route for the canal, and would still leave it open to the President to interpose his constitutional right of objection, if he should be of opinion that Congress had made an unwise choice.

None of these questions hang over the Nicaragua route, as to which there are no difficulties as to the population or as to insurrections, where all the people are anxiously awaiting the coming of the United States to their assistance, with eager hopes and a warm welcome, to their fertile, healthy, and beautiful land.

A legal situation was created by diplomatic agreement, in writing and under seal, in December, 1900, in the following language:

Protocol of an agreement between the Governments of the United States and of Nicaragua in regard to future negotiations for the construction of an interoceanic canal by way of Nicaragua.

It is agreed between the two Governments that when the President of the United States is authorized by law to acquire control of such portion of the territory now belonging to Nicaragua as may be desirable and necessary on which to construct and protect a canal of depth and capacity sufficient for the passage of vessels of the greatest tonnage and draft now in use, from a point near San Juan del Norte on the Caribbean Sea via Lake Nicaragua to Brito on the Pacific Ocean, they mutually engage to enter into negotiations with each other to settle the plan and the agreements, in detail, found necessary to accomplish the construction and to provide for the ownership and control of the proposed canal.

As preliminary to such future negotiations it is forthwith agreed that the course of said canal and the terminals thereof shall be the same that were stated in a treaty signed by the plenipotentiaries of the United States and Great Britain on February 5, 1900, and now pending in the Senate of the United States for confirmation, and that the provisions of the same shall be adhered to by the United States and Nicaragua.

In witness whereof the undersigned have signed this protocol and have hereunto affixed their seals.

Done in duplicate at Washington this 1st day of December, 1900.

[SEAL.] JOHN HAY.
[SEAL.] LUIS F. COREA.

The agreement with Costa Rica of the same date is in the same language.

The language of these agreements was taken from the House bill, then pending in the Senate in the Fifty-sixth Congress, and is the same in the House bill No. 3110, now before the Senate for consideration. Costa Rica and Nicaragua have informed the Secretary of State that they insist upon the submission of their respective agreements to Congress for its action. This is done to make the distinct acknowledgment that the agreements are binding on them notwithstanding the fact that the Hay-Pauncefote treaty, referred to in those agreements, was not ratified, the subsequent treaty, which was ratified, being the same in substance with the former treaty so far as it affects these States or their agreements.

The passage of the bill now before the Senate would make those agreements binding on those Republics, according to their terms.

The authorization of the President by Congress to make such acquisitions of the control of their territory for canal purposes is the condition upon which the agreements are to be binding, and when that is given the obligation is completely binding and irrevocable. What those Republics have done is to make the concessions stated in their agreements, if Congress will authorize him to acquire the rights described therein, and the contract is of perfect obligation when Congress gives him such authority.

In the bill before the Senate such authority is given to the President. Coupled with such authority is an appropriation, which he may use for the purpose of acquiring the rights therein designated, but can not use to acquire such rights from any other than the States of Nicaragua and Costa Rica. He is not compelled to pay anything for these rights. No price is put upon them either in the bill or in the contracts, and the price he shall pay, if any, is left to his just and legal discretion. These States agree further that they will enter into negotiations with the United States to arrange the details of the plan for the construction and control of the canal, but as to the route and terminals to which the exclusive canal rights apply the contract is forthwith binding when ratified by Congress.

The situation leaves the plan, arrangements, and compensation, if any, open to further negotiation when Congress has given the requisite authority to acquire the rights designated in those contracts of December, 1900.

Until such action is taken by Congress, the signatory powers could not conclude a final convention, because Costa Rica and Nicaragua desired the action of Congress as an assurance that the canal would not fail because of the indisposition of Congress to adopt the policy of the construction of the canal by the Government, to be under its exclusive ownership and control.

These States wisely and properly placed their offer before Congress for acceptance or rejection as the only satisfactory means of ascertaining whether the route they proposed to cede would be accepted by this Government, and whether Congress desired to abandon the former policy of constructing the canal through a corporation having a membership of private persons or of the three States concerned through the ownership of stock.

Now, in order that Congress may know the scope of the concessions so far as they are left undetermined by those contracts, Nicaragua has presented to the Secretary of State the draft of a convention, which sets forth in detail "the plan and the agreements in detail found necessary," in her opinion, "to accomplish the construction and to provide for the ownership and control of the proposed canal."

If the House bill is passed by the Senate, this draft of a convention will be the basis of action by our diplomatic authorities in formulating and agreeing to a treaty to execute those agreements of December, 1900. The passage of the House bill will not be an acceptance of this draft of a convention as a concluded treaty, but it is a committal of Nicaragua as to the character and extent of the rights she offers to concede. It is a fair, open, and sincere avowal of the various provisions that she considers proper to be incorporated in the treaty, and of the terms in which she considers that they should be expressed.

No expression or intimation is given by the President, through the Department of State, as to the provisions of this paper, whether or not they are sufficient for all purposes, or are just, or whether they are written in the terms he would approve.

It is information officially received by the Secretary of State and officially communicated to Congress of an ascertained basis on which further negotiations will be conducted when Congress has determined that the Nicaragua route is chosen for an isthmian canal, if it shall so determine.

The draft of the convention submitted by Colombia has the same effect, except that there is no existing agreement with Colombia relating to any concession of the right to construct a canal through that Republic.

The agreement proposed by Colombia sets forth all that she is willing to concede to the United States, and all that she, at present, demands of the United States in the way of compensation for such concessions.

Colombia, in the draft of the convention submitted to the Secretary of State, and through him to the President, has given an official statement of what she proposes, and the same has been officially presented to Congress by the Secretary of State.

Thus the entire subject has been fully presented to Congress in the various reports that have been made, in both Houses, during a period of fifty years, and the question is, Shall it now be decided?

If I should consider only the toil and anxiety it has cost so many honorable and able men to bring this question to a final vote, I would feel inexpressible anxiety to reach that conclusion.

The Government has spent not less than $3,000,000 in explorations and surveys of isthmian canal routes, while the cost to private persons in making such examinations, and in work on the canal, has been more than $6,000,000 on the Nicaragua line and at least $350,000,000 on the Panama route.

The work done by private enterprise in searching out the best lines for a canal through the dense tropical jungles has been quite as useful to this great enterprise as the millions that have been spent by governments. No government has spent a dollar in aid of the construction of a canal at Panama or Nicaragua. The people have supplied all the money that has been expended in actual work on these canals, and the contributions have come from those who were the possessors of small means—the middle classes.

They were not tempted by the prospect of gain, but were moved by the nobler impulse of duty and the love that every generous spirit feels for doing all that is possible for the glory of his country and the benefit of coming generations. It is the body of the people that supplies the men, the means, and the courage to achieve the great conquests of civilization and progress. It is not the men who selfishly save their own interests. They always follow in rear of the column with the wagon train and make profit out of great enterprises and the great bankruptcies that often ensue, but these men must always be secured an enormous profit, with gilt-edged collateral, before they will turn a hand to help the

country to increase its prosperity or to save it from ruin or distress.

These wreckers of great enterprises and salvage men are always alarmed at the dangers that threaten others, unless they are in a position to profit by their misfortunes. They oppose improvements by the Government because they furnish no opportunity to load mortgages upon public works and through them enormous burdens of interest and profits upon the industries of the country. Until the Government took hold of this canal question for the benefit of the people, the great capitalists looked with something akin to toleration at the canal enterprises that would probably furnish fresh opportunities for capital to levy severe contributions upon industry.

When the Government endeavored to come to the assistance of the people and essayed to use their taxpaying power for their benefit all was changed.

The great corporations that have power to place the commerce of the world in the grasp of transportation monopoly, and the capitalists who coin their credit into gold in the mints where corporation stocks are created, when they discover that the Government is about to come to the aid of the people, cry out against the effort as reckless folly and muster about Congress a display of scarecrows to frighten us from our propriety.

If they did not invade the dominion of truth and throw its votaries into the mire of defamation and attempted disgrace, their conduct would be less censurable. But they hesitate at nothing.

I have a motive in this work that is not personal. It is not the hope of winning the applause that is so dear to every honorable man. It relates, in the largest and most catholic sense, to the duty that rests upon the generation of Americans, as it has rested upon no other people or generation, to complete the physical and political geography of this hemisphere by the removal of the isthmian barrier to the union of the great oceans through a gateway that we alone are able to construct.

It is from this ability that this duty arises. If we have the ability and the opportunity, our failure to do this work can be attributed to nothing but moral weakness, engendered by the opposition of powerful private interests, or by the dread of some unseen or unknown force of nature that alarms the imaginations of men.

When Ferdinand de Lesseps lifted the first spade of earth from the line of the Suez Canal it was in one of the ancient mouths of the Nile, near a lake that covered an ancient city in the land of Goshen, where the tops of its temples were 50 feet below the surface of the water, but were plainly visible.

The land of Goshen had long been covered with silt from the Nile, and was a desert, through which the canal was dug.

Great Britain, using all its powers of diplomacy, caused the Sultan of Turkey to withhold his firman to authorize the Khedive of Egypt to do the work. De Lesseps had no government at his back and no money except private subscriptions and the assistance of Said Pasha, Khedive of Egypt, who bankrupted his estate to help a great cause.

We have nearly the entire body of 85,000,000 of people to encourage our work, and, if we choose, a Government that can stand the draft of more than a billion dollars from its Treasury, annually, without creating alarm or distress.

Under such favoring conditions I feel that Congress can do an act of kindness to a land that I love, and that is the hope that refuses to perish while success is possible.

I would change the sad conditions that are still roots of bitterness in the South, hidden beneath the ashes of a terrible destruction. I would brighten that land with the bloom of prosperous industry, and bring back to my brethren the consciousness that they live and move in the current of human affairs. I hope to see the waters of the Gulf of Mexico and the Caribbean Sea, the twin Mediterraneans of America, as busy with commerce as the bay of San Francisco.

I will read the names of the signers of the first report to the Senate of a bill to construct the Nicaraguan Canal. It was the unanimous report of the Committee on Foreign Relations, and was signed by every member, each one claiming the privilege of signing it: John Sherman, chairman; George F. Edmunds, WILLIAM P. FRYE, William M. Evarts, JOHN T. MORGAN, Joseph E. Brown, H. B. Payne, J. B. Eustis.

All have gone to their account except three, but none of them ever wrote upon a page of American history a nobler contribution to its prosperity or a more beautiful tribute to their own characters than was written in the first report made in favor of this canal. Mr. George F. Edmunds, the early, intelligent, and magnificent friend of this system, has stood by it through evil and good report, and is to-day a warmer friend of it than I am.

Only two Senators of those who signed that report are now members of this body; but three of the number survive. Not one single tarnish of dishonor rests upon the names of any of those glorious men who have gone to their great account. If I could recall them to-day and ask them of what act of Senatorial work they were proudest, I believe they would say an effort to unite the oceans through Nicaragua by the canal.

I yield the floor to my colleagues on the committee, who will follow me in a more complete discussion of the matters involved in this great controversy.

Mr. HANNA. Mr. President, I desire to give notice that I will address the Senate to-morrow at 2 o'clock on the pending bill.

Mr. MITCHELL. I desire to give notice that I shall follow the Senator from Ohio [Mr. HANNA] in a discussion of the bill.

MINNESOTA INDEMNITY SCHOOL LANDS.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. CLAPP. I hope the Senator will defer that motion for a few moments. I have here a joint resolution which, owing to a decision of the Supreme Court, it is very important for the State of Minnesota to have passed at once.

The PRESIDENT pro tempore. Does the Senator from Illinois withdraw his motion?

Mr. CULLOM. Has the joint resolution been considered by the Judiciary Committee?

Mr. CLAPP. No; it does not relate to judicial matters.

Mr. CULLOM. I will withdraw the motion so that the joint resolution of the Senator from Minnesota may be considered.

Mr. CLAPP. I ask unanimous consent for the present consideration of the joint resolution (S. R. 110) empowering the State of Minnesota to file selections of indemnity school lands upon public lands in Minnesota otherwise undisposed of, after the survey thereof in the field and prior to the approval and filing of the plat of survey thereof.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the State of Minnesota to make selections of indemnity school lands in lieu of lands in sections 16 and 36, granted to that State for school purposes and lost by reason of prior disposition thereof by the United States, or other causes, of any public lands in that State of which the survey thereof has been made in the field and which have not been otherwise disposed of, and to which no valid settlement right has attached; and any selections made prior to the approval and filing of the plat of survey are declared as valid and binding upon the United States as though the plat of survey of any such township had been approved and filed as aforesaid; but within thirty days from the date of filing of such selections the State shall cause notice to be published, in some newspaper of general circulation, to be designated by the proper district land officers within the vicinity of the lands selected, setting forth that the State has applied for the lands designated, and that the same are reserved thereby from any adverse appropriation, by settlement or otherwise, which publication shall be continued for thirty days from the first publication; and such indemnity school-land selections shall be subject to any modification or alteration of description and area rendered necessary by subsequent correction of the survey of any township wherein the lands so selected are situated.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CALIFORNIA LAND GRANT.

Mr. BARD. I ask unanimous consent for the present consideration of Senate bill 5212.

Mr. BEVERIDGE. Mr. President——

Mr. CULLOM. I will yield to the Senator from California [Mr. BARD] for the consideration of the bill named by him, but I hope I shall not be asked to yield by any other Senator.

Mr. BEVERIDGE. I was going to ask the Senator from Illinois to yield to me for the consideration of a bill after the bill of the Senator from California shall have been concluded.

Mr. CULLOM. I hope the Senator will not ask that.

Mr. BEVERIDGE. Very well.

Mr. BARD. I ask unanimous consent for the present consideration of the bill (S. 5212) granting to the State of California 640 acres of land in lieu of section 16, township 7 south, range 8 east, San Bernardino meridian, State of California, now occupied by the Torres band or village of Mission Indians.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with an amendment, on page 2, line 4, before the word "band," to strike out "Torres," and insert "Torros;" so as to make the bill read:

Be it enacted, etc., That there be, and is hereby, granted to the State of California 640 acres of land, to be selected by said State, under the direction of the Secretary of the Interior, from any of the unappropriated public lands of nonmineral character in said State, in lieu of section 16, township 7 south, range 8 east, San Bernardino meridian, State of California; and the selection by said State of the lands hereby granted, upon the approval of

same by the Secretary of the Interior, shall operate as a waiver by the State of its right to said section 16, and thereupon said section 16 shall become a part of the reservation heretofore set apart for the use and occupancy of the Torros band or village of Mission Indians, of southern California, under the provisions of the act of Congress approved January 12, 1891, entitled "An act for the relief of the Mission Indians in the State of California," according to the terms and subject to the conditions imposed by said act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting to the State of California 640 acres of land in lieu of section 16, township 7 south, range 8 east, San Bernardino meridian, State of California, now occupied by the Torros band or village of Mission Indians."

EXECUTIVE SESSION.

Mr. CULLOM. I now renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Thursday, June 5, 1902, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate June 4, 1902.

CONSULS.

Benjamin H. Ridgely, of Kentucky, now consul at Malaga, Spain, to be consul of the United States at Nantes, France, vice Joseph I. Brittain, nominated to be consul at Kehl, Germany.

Joseph I. Brittain, of Ohio, now consul at Nantes, France, to be consul of the United States at Kehl, Germany, vice Courtlandt K. Bolles, deceased.

Ross E. Holaday, of Ohio, to be consul of the United States at Santiago de Cuba, to fill an original vacancy.

Max J. Baehr, of Nebraska, now consul at Magdeburg, Germany, to be consul of the United States at Cienfuegos, Cuba, to fill an original vacancy.

SURVEYOR OF CUSTOMS.

James C. Ford, of Tennessee, to be surveyor of customs for the port of Knoxville, in the State of Tennessee, to succeed Elijah W. Adkins, whose term of office has expired by limitation.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

Second Lieut. George C. Carmine, to be a first lieutenant in the Revenue-Cutter Service of the United States, to succeed William H. Cushing, promoted.

Second Lieut. George M. Daniels, to be a first lieutenant in the Revenue-Cutter Service of the United States, to succeed Walter S. Howland, promoted.

Second Lieut. Detlef F. A. de Otte, to be a first lieutenant in the Revenue-Cutter Service of the United States, to succeed A. P. R. Hanks, promoted.

Second Lieut. Frederick J. Haake, to be a first lieutenant in the Revenue-Cutter Service of the United States, to succeed Frank G. F. Wadsworth, promoted.

Third Lieut. Eugene Blake, jr., to be a second lieutenant in the Revenue-Cutter Service of the United States, to succeed George C. Carmine, promoted.

Third Lieut. Frank B. Goudey, to be a second lieutenant in the Revenue-Cutter Service of the United States, to succeed George M. Daniels, promoted.

Third Lieut. Philip H. Scott, to be a second lieutenant in the Revenue-Cutter Service of the United States, to succeed Frederick J. Haake, promoted.

Third Lieut. William J. Wheeler, to be a second lieutenant in the Revenue-Cutter Service of the United States, to succeed Frederick G. Dodge, promoted.

Third Lieut. Herman H. Wolf, to be a second lieutenant in the Revenue-Cutter Service of the United States, to succeed Percy H. Brereton, promoted.

First Assistant Engineer J. Edward Dorry, to be a chief engineer in the Revenue-Cutter Service of the United States, to succeed Sidney T. Taylor, retired.

First Assistant Engineer Charles A. McAllister, to be a chief engineer in the Revenue-Cutter Service of the United States, to succeed James T. Tupper, retired.

Second Assistant Engineer Theodore G. Lewton, to be a first assistant engineer in the Revenue-Cutter Service of the United States, to succeed George B. Maher, promoted.

Second Assistant Engineer Albert C. Norman, to be a first assistant engineer in the Revenue-Cutter Service of the United States, to succeed Henry O. Slayton, promoted.

Second Asst. Engineer C. Gadsden Porcher, to be a first assistant engineer in the Revenue-Cutter Service of the United States, to succeed J. Edward Dorry, promoted.

Second Asst. Engineer John B. Turner, to be a first assistant engineer in the Revenue-Cutter Service of the United States, to succeed Charles A. McAllister, promoted.

Acting Second Asst. Engineer Norris K. Davis, of Virginia, to be a second assistant engineer in the Revenue-Cutter Service of the United States, to succeed Theodore G. Lewton, promoted.

Acting Second Asst. Engineer Lorenzo C. Farwell, of Massachusetts, to be a second assistant engineer in the Revenue-Cutter Service of the United States, to succeed C. Gadsden Porcher, promoted.

Acting Second Asst. Engineer William J. Gilbert, of North Carolina, to be a second assistant engineer in the Revenue-Cutter Service of the United States, to succeed Albert C. Norman, promoted.

APPOINTMENTS IN THE ARMY.

Medical Department.

William Lordan Keller, of New York, contract surgeon, United States Army, to be assistant surgeon with the rank of first lieutenant, June 2, 1902, to fill an original vacancy.

Charles Clarence Billingslea, of Maryland, contract surgeon, United States Army, to be assistant surgeon with the rank of first lieutenant, June 2, 1902, to fill an original vacancy.

COLLECTOR OF CUSTOMS.

Phillips Lee Goldsborough, of Maryland, to be collector of internal revenue for the district of Maryland, to succeed B. F. Parlett, resigned.

APPRAISER OF MERCHANDISE.

C. Ross Mace, of Maryland, to be appraiser of merchandise in the district of Baltimore, in the Sate of Maryland, to succeed Henry R. Torbert, removed.

POSTMASTERS.

William R. Cady, to be postmaster at Rogers, in the county of Benton, State of Arkansas, in place of Leo K. Fesler. Incumbent's commission expired January 10, 1902.

Reuben A. Edmonds, to be postmaster at Bakersfield, in the county of Kern and State of California, in place of Reuben A. Edmonds. Incumbent's commission expires June 13, 1902.

Albert W. James, to be postmaster at Cobden, in the county of Union and State of Illinois, in place of Henry Ede. Incumbent's commission expired May 4, 1902.

Geradus L. Van de Steeg, to be postmaster at Orange City, in the county of Sioux and State of Iowa, in place of Geradus L. Van de Steeg. Incumbent's commission expired May 28, 1902.

Drewy W. Rhyne, to be postmaster at Lexington, in the county of Holmes and State of Mississippi, in place of Drewy W. Rhyne. Incumbent's commission expired May 27, 1902.

Edward H. Clough, to be postmaster at Manchester, in the county of Hillsboro and State of New Hampshire, in place of Ossian D. Knox. Incumbent's commission expires June 21, 1902.

Albert P. Merriam, to be postmaster at Phoenix, in the county of Oswego and State of New York, in place of Albert P. Merriam. Incumbent's commission expired May 5, 1902.

George W. De Priest, to be postmaster at Shelby, in the county of Cleveland and State of North Carolina, in place of John H. McBrayer. Incumbent's commission expired February 1, 1902.

J. W. Utterback, to be postmaster at Cordell, in the county of Washita and Territory of Oklahoma. Office became Presidential April 1, 1902.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 4, 1902.

RECEIVER OF PUBLIC MONEYS.

George W. Bibee, of Sheridan, Oreg., to be receiver of public moneys at Oregon City, Oreg.

POSTMASTERS.

James A. Simpson, to be postmaster at Kissimmee, in the county of Osceola and State of Florida.

Benjamin J. Rosewater, to be postmaster at Eureka Springs, in the county of Carroll and State of Arkansas.

Levi W. Davison, to be postmaster at Earlville, in the county of Lasalle and State of Illinois.

James Bromilow, to be postmaster at Chillicothe, in the county of Peoria and State of Illinois.

James H. Spencer, to be postmaster at Necedah, in the county of Juneau and State of Wisconsin.

Lewis S. Patrick, to be postmaster at Marinette, in the county of Marinette and State of Wisconsin.

Ezra M. Rogers, to be postmaster at Hartford, in the county of Washington and State of Wisconsin.

Henry G. Kress, to be postmaster at Manitowoc, in the county of Manitowoc and State of Wisconsin.

Edward G. Edgerton, to be postmaster at Yankton, in the county of Yankton and State of South Dakota.

John Kellogg, to be postmaster at Reedsburg, in the county of Sauk and State of Wisconsin.

Benjamin Webster, to be postmaster at Platteville, in the county of Grant and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June 4, 1902.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

EXPENDITURES IN CUBA.

Mr. HULL. Mr. Speaker, I am instructed by the Committee on Military Affairs to report back the following resolution and move that it lie on the table.

The SPEAKER. The gentleman from Iowa, by direction of the Committee on Military Affairs, reports back the following resolution and moves that it lie on the table.

The Clerk read as follows:

House resolution 274.

Resolved by the House of Representatives, That the Secretary of War be, and he hereby is, respectfully requested to transmit to this House a detailed and itemized account of the expenditures made by or under the direction or orders of Gen. Leonard Wood, as the military governor of the island of Cuba, during the period of time that such island was under the control of the military authorities of the United States.

The SPEAKER. The question is on agreeing to the motion.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. HULL. Division, Mr. Speaker.

The House divided, and there were—ayes 76, noes 46.

Mr. HAY. Mr. Speaker, on this question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GILBERT. Mr. Speaker, can we have that resolution read over again?

The SPEAKER. Without objection, the resolution will be again reported.

The resolution was again reported.

The question was taken; and there were—yeas 111, nays 80, answered "present" 15, not voting 145; as follows:

YEAS—111.

Alexander,	Davidson,	Kahn,	Rumple,
Allen, Me.	Draper,	Knapp,	Schirm,
Ball, Del.	Emerson,	Lacey,	Shattuc,
Barney,	Esch,	Landis,	Shelden,
Bates,	Evans,	Lawrence,	Sibley,
Beidler,	Fletcher,	Lessler,	Smith, Ill.
Bowersock,	Foerderer,	Littlefield,	Smith, Iowa
Brick,	Fordney,	McCleary,	Smith, H. C.
Bristow,	Foss,	Mann,	Steele,
Bromwell,	Gardner, Mich.	Moody, N. C.	Stevens, Minn.
Brown,	Graff,	Moody, Oreg.	Stewart, N. J.
Burk, Pa.	Graham,	Morgan,	Sulloway,
Burleigh,	Grosvenor,	Morrell,	Sutherland,
Burton,	Grow,	Morris,	Tawney,
Butler, Pa.	Hamilton,	Mudd,	Tayler, Ohio
Cannon,	Haskins,	Needham,	Thomas, Iowa
Capron,	Henry, Conn.	Nevin,	Tirrell,
Connell,	Hepburn,	Olmsted,	Tompkins, Ohio
Conner,	Hildebrant,	Otjen,	Tongue,
Coombs,	Hill,	Parker,	Van Voorhis,
Cooper, Wis.	Hitt,	Payne,	Vreeland,
Corliss,	Howell,	Pearre,	Wachter,
Cousins,	Hull,	Perkins,	Wadsworth,
Creamer,	Irwin,	Powers, Mass.	Wanger,
Curtis,	Jack,	Prince,	Warnock,
Cushman,	Jenkins,	Ray, N. Y.	Watson.
Dahle,	Jones, Wash.	Reeder,	Woods.
Dalzell,	Joy,	Reeves,	

NAYS—80.

Adamson,	Fitzgerald,	Lewis, Ga.	Robinson, Nebr.
Ball, Tex.	Fox,	Lindsay,	Rucker,
Bankhead,	Gilbert,	Little,	Ryan,
Bartlett,	Hay,	Livingston,	Scarborough,
Brundidge,	Henry, Miss.	Lloyd,	Shafroth,
Burgess,	Hooker,	McAndrews,	Sims,
Burleson,	Howard,	McCulloch,	Smith, Ky.
Burnett,	Jackson, Kans.	McLain,	Snook,
Candler,	Jett,	McRae,	Sparkman,
Cassingham,	Jones, Va.	Maddox,	Spight,
Clark,	Kehoe,	Mahoney,	Stark,
Cochran,	Kern,	Mickey,	Stephens, Tex.
Cooney,	Kitchin, Claude	Moon,	Taylor, Ala.
Cooper, Tex.	Kitchin, Wm. W.	Padgett,	Thayer,
Cowherd,	Kleberg,	Patterson, Tenn.	Vandiver,
Crowley,	Kluttz,	Ransdell, La.	Wiley,
Davis, Fla.	Lamb,	Reid,	Williams, Ill.
De Armond,	Lanham,	Rhea, Va.	Williams, Miss.
Edwards,	Latimer,	Richardson, Ala.	Wilson,
Feely,	Lester,	Rixey,	Wooten.

ANSWERED "PRESENT"—15.

Adams,	Deemer,	Metcalf,	Scott,
Brantley,	Griggs,	Minor,	Slayden,
Burkett,	Ketcham,	Naphen,	Wright.
Crumpacker,	McClellan,	Pierce,	

NOT VOTING—145.

Acheson,	Dovener,	Kyle,	Robinson, Ind.
Allen, Ky.	Driscoll,	Lassiter,	Ruppert,
Aplin,	Eddy,	Lever,	Russell,
Babcock,	Elliott,	Lewis, Pa.	Selby,
Bartholdt,	Finley,	Littauer,	Shackleford,
Bell,	Fleming,	Long,	Shallenberger,
Bellamy,	Flood,	Loud,	Sheppard,
Belmont,	Foster, Ill.	Loudenslager,	Sherman,
Benton,	Foster, Vt.	Lovering,	Showalter,
Bingham,	Fowler,	McCall,	Skiles,
Bishop,	Gaines, Tenn.	McDermott,	Small,
Blackburn,	Gaines, W. Va.	McLachlan,	Smith, S. W.
Blakeney,	Gardner, N. J.	Mahon,	Smith, Wm. Alden
Boreing,	Gibson,	Marshall,	Snodgrass,
Boutell,	Gill,	Martin,	Southard,
Bowie,	Gillet, N. Y.	Maynard,	Southwick,
Breazeale,	Gillett, Mass.	Mercer,	Sperry,
Broussard,	Glenn,	Meyer, La.	Stewart, N. Y.
Brownlow,	Goldfogle,	Miers, Ind.	Storm,
Bull,	Gooch,	Miller,	Sulzer,
Burke, S. Dak.	Gordon,	Mondell,	Swanson,
Butler, Mo.	Green, Pa.	Moss,	Talbert,
Calderhead,	Greene, Mass.	Mutchler,	Tate,
Caldwell,	Griffith,	Neville,	Thomas, N. C.
Cassel,	Hall,	Newlands,	Thompson,
Clayton,	Hanbury,	Norton,	Tompkins, N. Y.
Conry,	Haugen,	Overstreet,	Trimble,
Cromer,	Heatwole,	Palmer,	Underwood,
Currier,	Hedge,	Patterson, Pa.	Warner,
Darragh,	Hemenway,	Pou,	Weeks,
Davey, La.	Henry, Tex.	Powers, Me.	Wheeler,
Dayton,	Holliday,	Pugsley,	White,
De Graffenreid	Hopkins,	Randell, Tex.	Young,
Dick,	Hughes,	Richardson, Tenn.	Zenor.
Dinsmore,	Jackson, Md.	Robb,	
Dougherty,	Johnson,	Roberts,	
Douglas,	Knox,	Robertson, La.	

So the motion to lay the resolution on the table was agreed to.

The following pairs were announced:

Until further notice:

Mr. SHOWALTER with Mr. SLAYDEN.

Mr. DAYTON with Mr. DAVEY of Louisiana.

Mr. SOUTHARD with Mr. NORTON.

Mr. LONG with Mr. HENRY of Texas.

Mr. BURKETT with Mr. SHALLENBERGER.

Mr. GILLETT of Massachusetts with Mr. NAPHEN.

Mr. BINGHAM with Mr. CREAMER.

Mr. POWERS of Maine with Mr. GAINES of Tennessee.

Mr. KETCHAM with Mr. SNODGRASS.

Mr. MCCALL with Mr. ROBERTSON of Louisiana.

Mr. HOLLIDAY with Mr. MIERS of Indiana.

Mr. SKILES with Mr. TALBERT.

Mr. GORDON with Mr. SCOTT.

Mr. LOUDENSLAGER with Mr. DE GRAFFENREID.

Mr. GARDNER of New Jersey with Mr. WHITE.

Mr. GILLET of New York with Mr. CLAYTON.

Mr. CALDERHEAD with Mr. ROBB.

Mr. BISHOP with Mr. DOUGHERTY.

Mr. BROWNLOW with Mr. PIERCE.

Mr. HEMENWAY with Mr. ZENOR.

For the session:

Mr. RUSSELL with Mr. MCCLELLAN.

Mr. BOREING with Mr. TRIMBLE.

Mr. YOUNG with Mr. BENTON.

Mr. DEEMER with Mr. MUTCHLER.

Mr. SHERMAN with Mr. RUPPERT.

Mr. WRIGHT with Mr. HALL.

Mr. HEATWOLE with Mr. TATE.

For one week:

Mr. ROBERTS with Mr. BELLAMY.

Mr. CURRIER with Mr. PUGSLEY.

Mr. FOSTER of Vermont with Mr. POU.

Mr. CRUMPACKER with Mr. GRIFFITH.

For ten days:

Mr. WM. ALDEN SMITH with Mr. ROBINSON of Indiana.

Mr. MILLER with Mr. THOMAS of North Carolina.

Mr. DARRAGH with Mr. THOMPSON, until June 9.

For this day:

Mr. WEEKS with Mr. GREEN of Pennsylvania.

Mr. BOUTELL with Mr. GRIGGS.

Mr. METCALF with Mr. WHEELER.

Mr. BABCOCK with Mr. RICHARDSON of Tennessee.

Mr. DICK with Mr. UNDERWOOD.

Mr. TOMPKINS of New York with Mr. SWANSON.

Mr. STEWART of New York with Mr. SMALL.

Mr. WARNER with Mr. SHEPPARD.

Mr. SOUTHWICK with Mr. SHACKLEFORD.

Mr. SAMUEL W. SMITH with Mr. SELBY.

Mr. MONDELL with Mr. RANDELL of Texas.

Mr. OVERSTREET with Mr. NEWLANDS.

Mr. MARTIN with Mr. NEVILLE.

Mr. MARSHALL with Mr. MAYNARD.

Mr. MAHON with Mr. MCDERMOTT.

Mr. LITTAUER with Mr. JOHNSON.

Mr. LOVERING with Mr. LEVER.
Mr. LEWIS of Pennsylvania with Mr. GOOCH.
Mr. KYLE with Mr. GOLDFOGLE.
Mr. KNOX with Mr. GLENN.
Mr. HUGHES with Mr. FOSTER of Illinois.
Mr. HOPKINS with Mr. FLOOD.
Mr. HEDGE with Mr. FLEMING.
Mr. HANBURY with Mr. ELLIOTT.
Mr. GREENE of Massachusetts with Mr. DINSMORE.
Mr. GILL with Mr. CONRY.
Mr. GAINES of West Virginia with Mr. CALDWELL.
Mr. FOWLER with Mr. BUTLER of Missouri.
Mr. DOVENER with Mr. BROUSSARD.
Mr. COUSINS with Mr. BREAZEALE.
Mr. BURKE of South Dakota with Mr. BOWIE.
Mr. BULL with Mr. BRANTLEY.
Mr. ACHESON with Mr. ALLEN of Kentucky.
On this vote:
Mr. JACKSON of Maryland with Mr. BELMONT.
Mr. ADAMS with Mr. LASSITER.
Mr. CROMER with Mr. SULZER.
Mr. MERCER with Mr. MEYER of Louisiana.
Mr. HAUGEN with Mr. FINLEY.
Mr. BARTHOLDT with Mr. BELL.

Mr. GRIGGS. Mr. Speaker, I would like to inquire if the gentleman from Illinois, Mr. BOUTELL, voted?

The SPEAKER. He has not.

Mr. GRIGGS. Then I would like to withdraw my vote of "no" and be marked "present."

The Clerk called Mr. GRIGGS's name, and he answered "present," as above recorded.

Mr. PIERCE. Mr. Speaker, has the gentleman from Tennessee, Mr. BROWNLOW, voted?

The SPEAKER. He has not.

Mr. PIERCE. I desire to withdraw my vote of "no" and be marked "present."

The name of Mr. PIERCE was called, and he answered "present," as above recorded.

Mr. BURKETT. Mr. Speaker, I am just informed that a pair was read between myself and Mr. SHALLENBERGER. I wish to withdraw my vote of "aye" and be marked "present."

The name of Mr. BURKETT was called, and he answered "present," as above recorded.

The result of the vote was then announced as above recorded.

PROTECTION OF THE PRESIDENT.

Mr. RAY of New York. Mr. Speaker, I move that the House now resolve itself into Committee of the Whole House on the state of the Union for the further consideration of Senate bill 3652, for the protection of the President of the United States, and for other purposes.

The motion was agreed to; and accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GROSVENOR in the chair.

Mr. RAY of New York. Mr. Chairman, I now yield to the gentleman from Massachusetts [Mr. POWERS] such time as he desires.

Mr. POWERS of Massachusetts. Mr. Chairman, after listening yesterday to the very interesting and fascinating speech from my distinguished, learned, and lovable friend from Texas [Mr. LANHAM], I could not but feel that the effect of that speech was to cause this House to drift a long way from its original moorings. I could well understand how anyone that was capable of making a speech so interesting, so fascinating, so full of incident and story, could well become the governor of the great empire of the State of Texas, and I regret that my friend should have seen fit to so far limit his ambition as to say that he is not a candidate for the Presidency of the United States. [Applause.]

I can understand perfectly well that while our friends upon the other side are at present casting around for some one to be their standard bearer in the next Presidential campaign, they could not do better than to take the gentleman from the great State of Texas. [Applause.]

I assume that no bill has come before this House at this session which was so strongly backed by petitions from the people as this bill for the better protection of the President of the United States. Directly after the assault upon the President, the arrest of the assassin, and later on, even before his trial, petitions in favor of some national law for the better protection of the President of the United States were put in circulation in every part of the United States. They were not signed, Mr. Chairman, by the unthinking people of this country, but they were signed by the most law-abiding and intelligent citizens of America. They were signed, and very generally signed, by eminent lawyers practicing in the different courts of the different States of the Union. And what did they ask? They asked that this Congress should enact some law which should better protect the Chief Magistrate of this nation.

Now, Mr. Chairman, why were those petitions put in circulation? What was the reason for it? Suppose we examine the reason which actuated American citizens to put in circulation these petitions and send them to their Representatives in Congress. After the assault the assassin was promptly arrested by the officers of the State of New York. Later on, after the death of his victim, he was indicted, brought to a speedy trial, convicted, and he was executed.

Now, mind you, he was indicted because he had violated the laws of the State of New York. He had violated no national law, but he had violated the laws of the State of New York. In other words, President McKinley, as a citizen of the State of Ohio, while stopping in the State of New York, and entitled to the protection of the laws of the State of New York, had been assaulted, and the assault resulted in death. He was arrested because he had assaulted unto death a citizen entitled to the protection of the laws of the State of New York, within the jurisdiction of the courts of New York, and therefore the assassin was arrested and tried and punished.

But, mind you, the assassin had not in mind the death of William McKinley as an individual, or as a citizen. What he had in mind was an attack upon organized society, upon organized government. He bore no malice against William McKinley as a man; he bore no malice against William McKinley as a citizen; but he bore malice against the Government of the United States, and William McKinley stood as the representative of organized government. He sought the destruction of the Government of the United States by the assassination of the chief ruler of the people. He bore not the slightest malice against William McKinley as a man, and when he committed that crime, it was a crime against the Government of the United States, and he was punished not by reason of the crime which he committed and not by reason of the motive which actuated him to commit the crime, but he was punished because it happened that in committing that crime he incidently violated a law of the State of New York.

Now, in violating that law of the State of New York it was a breach of the peace and dignity of that Commonwealth; and yet, as a matter of fact, he did not have in mind the violation of any law of the State of New York. He had in mind a premeditated attempt to injure and destroy the organized government of this country.

Now, at the time of his indictment, and at the time of his trial, the Attorney-General of the United States, the law adviser of the Government, the chief prosecuting attorney of the United States, and also the United States attorney of the district of New York, in which the crime was committed—neither one had the right to go into the courts of New York and take any part either in the indictment or at the trial. If they appeared there at all they appeared there by the courtesy of the law officers of the State of New York, and the Attorney-General has no more right to appear there to take part in the prosecution of one who had attempted to destroy the Government of the United States than any other member of the Pittsburg bar had the right to appear there.

In other words, even though the crime were committed against the Government of the United States, premeditated, possibly as the result of a lot cast that this very assassin should commit that crime, a crime against the Government, a crime against organized society, at the same time that man could not under any law upon the statute book be punished for the crime that he had intentionally committed.

Now, when that situation appeared to the American citizens they said that it was necessary, in their judgment, that some law should be put upon the statute books which should provide for the punishment of those who might attempt to destroy or to weaken the Government of the United States; in other words, they said that when the attack was made upon the sovereignty of this great nation, the nation, through its courts, should have jurisdiction to punish it. And so they put in circulation the petitions which came to us, signed by thousands, in favor of some national law on this subject.

Now, it has been claimed here that the enactment of any law of the kind proposed by the various measures that are now under consideration is an infringement upon the sovereignty of the State. Why so? No State in its sovereign capacity has imposed upon it the duty or the burden of defending the sovereignty of this Government. In other words, when this assassin of President McKinley was punished in the courts of the State of New York he was punished because he had committed an infraction of the laws of that State. He was not punished by reason of the crime that he had committed. In other words, the situation would have been exactly the same if he had committed that crime in the State of Massachusetts (a part of which I have the honor to represent), or if it had been committed within the limits of any other State of this Union. In other words, the only punishment that could

reach this criminal was an incidental punishment, because in attempting to commit one crime he had incidentally committed another crime, and he was punished not for the crime he had committed, but because in committing that crime he had incidentally committed another crime, which was an infraction of the laws of the State.

Now, what I maintain, Mr. Chairman, is this: That the United States Government has the right at all times to maintain its sovereignty; that it has the right at all times to punish those who attempt to destroy this Government. But at the present time there exists no law by which this great nation can punish the offense, if the crime is committed outside of the District of Columbia and the other Territories not embraced in the States of the Union.

Now, the people of this country said—and they had a right to say it, and they had the right to insist upon it—that this Congress should take this matter into consideration, and that inasmuch as the Constitution had conferred upon the Congress of the United States the power to make all proper and necessary laws, this was a proper and necessary law for Congress to make; in other words, that it was proper and necessary for Congress to enact a law by which any attempt to destroy Government should be punished.

I want one thing distinctly understood—and I call the particular attention of my friend from Texas to this point—that we are not attempting to legislate against crimes committed upon an individual. What we are undertaking to reach is the crime committed upon organized government, just as the crime which led to the death of President McKinley was a crime against the Government, not a crime against the individual.

Now, in our attempt to frame this law, we bring before the House for its consideration a bill which seeks to protect the Government of the United States. It does not in any way interfere with the sovereignty of any State. It does not undertake to take away from any State the rights which exist now under the sovereignty of the various States to which this act applies. The sovereignty of the United States is in the people of the United States.

This is a nation which is operated and maintained by law. We have nothing in this country in the nature of a ruler by inheritance or by "the divine right of kings." The people in this country rule, and the sovereignty of the United States, as has been so well expressed by the distinguished chairman of the committee that has this bill in charge, extends over every foot of soil in the United States. And wherever that sovereignty goes there Congress has the right to enact whatever laws may be necessary for the maintenance of that sovereignty against the interference or attack of anybody and everybody.

Now, what do they seek to do? We undertake to say that whoever anywhere within the jurisdiction of the United States undertakes to take the life of the President when he is in the discharge of his official duty, or by reason of his official capacity, or by reason of the omission or commission of an official act, commits a crime against the Government of the United States.

Does that interfere with State sovereignty? Does anyone claim that the attempt to protect the Government in the orderly operations of the machinery of government is an interference with the sovereignty of any State? I fully agree with my friend from Texas [Mr. LANHAM] that if an assault be committed upon the President of the United States while he may be temporarily sojourning in the State of Texas, that crime will be punished under the laws of the State of Texas. But what is the crime that will be punished under the laws of the State of Texas? Is it the crime of attempting to destroy the National Government? Not at all. It is the crime of having committed an assault, a felonious assault, upon a citizen of the United States, while he is in Texas and under the protection of the laws of Texas. That right remains with you after the passage of this bill, except you may say that the remedy under this law exhausts the remedy which you have, but which accomplished the same effect, and even if we do not take advantage of this law, it would still be left for the State of Texas to administer its own laws and to punish the crime which had been committed against its own laws. And so I say that the passage of this bill in no way trenches upon the sovereignty of any State.

Now, it is a mooted question which has been discussed here, and discussed most interestingly, as to how far the United States Government has a right to protect its officers, whether in the discharge of duty or not. I take the position, which is entirely in accord with the position taken yesterday by the chairman of the committee, that our right to protect the officers of the Government means our right to protect them while in the discharge of duty. In other words, the United States Government is to-day operated through the agency of officers and men. It can not be operated in any other way. We have a right to protect this Government in its existence. We have a right to protect it in the operation of its laws, and so long as we protect this Government in its maintenance and its operation, then we go as far as we have the right to under the sovereignty which exists under the Constitution of the United States. In other words, suppose this case: Suppose that President McKinley had been in New York and had not been in the performance of any duty, that he had been assaulted by one who did not assault him as the President of the United States, but who assaulted him by reason of some old feud that had existed long before he became President of the United States.

That assault would not be an assault upon the Government of the United States; it would be an assault upon William McKinley as an individual and a citizen, and the laws of the State of New York would punish that assault and punish it to the extent to which it was entitled to be punished; but I can not agree with my friend from Texas [Mr. LANHAM] that the people of this country have no greater interest in their chief ruler than they have in any other citizen, because the interest of 80,000,000 of people in the President of the United States is not an interest in the President of the United States as an individual; it is an interest in the President of the United States because he is Chief Executive of the United States and a part of the machinery of government. We protect him not as an individual; we protect him because he is Chief Executive of the nation; we protect him and seek to protect him because in protecting him we protect the Government of the United States, and that is the distinction between the protection of the President of the United States as a President and the protection of the President of the United States as an individual.

I understand that there are those in this House, possibly members of the committee that report this bill, who believe that we have the authority under the Constitution to go much further than this bill goes. There are those, for whose opinions I have the highest regard and esteem, who claim that we have the right under the constitutional power which is vested in Congress to protect the President as a citizen, whether in the discharge of his duty or not; but to my mind that is not necessary for the purposes of this legislation. We are attempting to protect the President of the United States. We do not seek by this law to protect any citizen of the United States as such. We undertake to say that anyone who attempts to interfere with the existence of government or anyone who attempts to interfere with the operations of government interferes with the sovereignty of the country. This bill does not seek to punish anyone who commits an assault upon any Federal officer so long as he commits that assault upon the Federal officer when he is not in the discharge of duty and not by reason of any Federal act which he has performed or failed to perform.

Mr. SCOTT. Will the gentleman permit a question?

Mr. POWERS of Massachusetts. Certainly.

Mr. SCOTT. Does this bill contemplate such an act as an assault upon the President at a time when he may not be engaged directly or indirectly in the discharge of his public duty, and yet when such an assault might be made for the reason that he was the Chief Executive and was the President of the United States?

Mr. LITTLEFIELD. Certainly; in terms.

Mr. RAY of New York. Certainly; it says so in terms.

Mr. SCOTT. Does it in such event protect the President?

Mr. LITTLEFIELD. Yes.

Mr. POWERS of Massachusetts. The bill is drawn so broadly that it protects the President not only when in the discharge of his official duties, but by reason of his official position, and more than that, it goes to the extent of inquiring into the very motive which actuates the attack. Now, I can conceive a case of an assault upon the President of the United States that might not come within the provisions of this bill; but at the same time that assault would not in any way be an assault upon the Government of the United States. By that I mean that it might grow out of a personal feud between the President and some one, and the assault would have no relation whatever to the official connection which the President had with the Government of the United States.

Mr. CRUMPACKER. Will the gentleman allow a question?

Mr. POWERS of Massachusetts. Yes.

Mr. CRUMPACKER. The gentleman is making a very interesting and instructive speech; but if the death of the President resulted from an attempt on the part of some one to commit robbery in one of the States while the President was not engaged in some official act, the offender would not be liable to prosecution under this law, as I understand it.

Mr. RAY of New York. Why, yes; he certainly would be.

Mr. CRUMPACKER. Is it the view of the gentleman from Massachusetts [Mr. POWERS] that he would not be?

Mr. POWERS of Massachusetts. No; that is not my view. That must come with all kinds of qualifications.

Mr. CRUMPACKER. I want to get at a case of this kind: The gentleman just said that he could conceive a case where an assault might be committed upon the President of the United

States when he was not engaged in his official duty, when the law under consideration would not apply because the attack would not be upon the Government. That is correct, is it not?

Mr. POWERS of Massachusetts. I think that statement should be made with this limitation, on the assumption that there might be times when the President of the United States, under a fair construction of the law, is not engaged in the performance of official duty.

Mr. CRUMPACKER. Now, is not the President of the United States President at all times during his constitutional period, without regard to what he is doing?

Mr. POWERS of Massachusetts. If that be true, that he is President at all times, and if it be true, as the gentleman states, that the assault is committed while he is President and is in the performance of his official duty, then it comes within the provisions of this bill.

Mr. CRUMPACKER. Suppose he be not, in the sense of this law, in the performance of an official duty, and is not assaulted because of his official character or because of some official act; then I want to know whether the gentleman believes that the offense would come within the purview of the pending bill?

Mr. POWERS of Massachusetts. Upon that assumption I should say that we could assume an offense that would not come within the provisions of the bill.

Mr. CRUMPACKER. Now, let me ask the gentleman another question. Is it not an offense against the Federal Government, an embarrassment of its operations, to take the life of the President of the United States at any time, without regard to the purpose or provocation of the act?

Mr. POWERS of Massachusetts. There is no question but that. It is an interference with the operations of the Government.

Mr. CRUMPACKER. And have we not the power to prevent by penal laws that sort of interference?

Mr. POWERS of Massachusetts. I will say to the gentleman from Indiana that that brings us to the very threshold of that question on which lawyers disagree. Now, all the adjudicated cases would undertake to say that when we undertake to protect the officers of the Government while in the discharge of their official duties and by reason of their official character, when the attack is not made upon them with a view of interfering with the operations of government, that then we have gone to the full extent that we can go.

Mr. THAYER. Mr. Chairman, will the gentleman allow a question?

The CHAIRMAN. Does the gentleman from Massachusetts yield to his colleague?

Mr. POWERS of Massachusetts. I do.

Mr. THAYER. I do not wish to interrupt the gentleman to any great extent, because I am fully in accord with the spirit of this bill; but I want to ask the gentleman this question: I understand that authority is claimed for this bill because these assaults are attacks upon the sovereignty of the Government. Otherwise we would have no right to go into the States to punish criminals. Now, there are three classes of persons here pointed out, the President, the Vice-President, and foreign ambassadors and ministers. I want to ask the gentleman if he thinks that an agent representing a foreign country or government, coming here in the interest of that government and that country, is a part of the machinery of this Government to such an extent that we can punish those who make assaults upon him as well as we can upon the President and Vice-President of the United States?

Mr. POWERS of Massachusetts. Why, it strikes me, Mr. Chairman, that this case comes fairly within the law, which clearly defines our relations with friendly powers having ambassadors and ministers here, and while they are here they are a part of this Government and are entitled to the same protection as is the President of the United States.

Mr. RAY of New York. If the gentleman will permit me, the Constitution of the United States expressly says that the Congress shall have power to define and punish offenses against the law of nations, and in United States re Arzona it is declared by the Supreme Court under that clause that we have the power to enact criminal laws protecting aliens when in the United States.

Mr. THAYER. But, assuming that to be a fact, would it not still be necessary to protect those within the President's Cabinet?

Mr. RAY of New York. Why, we have that provision in this bill, and if the gentleman would only take the time and take the bill and read it he would see that it not only protects the President, the Vice-President, but also other officers entitled under the law to succeed to that high office. That is in the bill in express terms.

Mr. POWERS of Massachusetts. I understand it can well be argued that this bill is limited, and that it ought to include not only the President and those in line of succession, but possibly other officers of the Government. Now, of course there ought to be a limit to the protection. and this thing can well be borne in mind, that when we introduced this bill it was for the purpose of protecting the Government against those who believed in individual liberty to that extent that no government ought to exist at all, and you will find that the history of anarchists has been an effort to take the life of the chief ruler. That has been true when they attempted to take the life of the Czar of Russia, and to take the like of the Emperor of Germany, or the king or queen of this country or that country; and they do it upon the principle that if they destroy the head of the government, they are more likely to cripple the operations of government. Now, I want to say just one word concerning the third section—I think it is the third—which provides for the protection of ambassadors and ministers accredited to this country.

Mr. LACEY. Mr. Chairman, I would like, before the gentleman passes from the President, to ask a question.

Mr. POWERS of Massachusetts. I would be very glad to answer it.

Mr. LACEY. Take the specific case of the assassination of President McKinley. Of course in that case the assassin, by his subsequent confession, says that his purpose was to kill the President because he was the President. Supposing he was mute; the question then would be that he simply killed the President. Would not this bill fail to protect? He was simply at a public meeting, an exposition, holding a reception of his friends, not performing the duties of the President of the United States, but at a social gathering. Now, would not this bill entirely leave him out of its protection or that protection which is given him in the performance of official duty?

Mr. POWERS of Massachusetts. No, sir. I will state to the gentleman from Iowa that he by all fair interpretation was engaged in the performance of official duty. He was invited to the exposition as the President of the United States; he accepted that invitation as President of the United States; he was giving a reception to the people as President of the United States, and when the assault was made upon him he was known to be the President of the United States. But even if that had not been so, we have so drawn this bill that we have put the presumption in favor of the Government and the burden upon the defendant to show that he did not have that in mind when he made that attack. I think this bill is very well safeguarded along that line. Now, coming to the protection——

Mr. CRUMPACKER. Before leaving that, take the case of President Lincoln. He was attending a theater at the time of his assassination. Supposing, now, he had been assassinated under those circumstances, and that the assassin had been able to prove that he committed the act on account of some personal grievance against him, the bill under consideration would not have provided any punishment for that man.

Mr. POWERS of Massachusetts. I can imagine a case which would not come within the provisions of this bill.

Mr. CRUMPACKER. In the case stated hypothetically.

Mr. POWERS of Massachusetts. I do not think you included all the limitations that ought to be included.

Mr. CRUMPACKER. While he would not be engaged in the performance of any official duty.

Mr. POWERS of Massachusetts. By reason of the fact that he is the President of the United States and the fact of the civil war, which possibly might influence the assassin——

Mr. CRUMPACKER. Eliminate all those aspects, then your bill would not cover the case.

Mr. POWERS of Massachusetts. The bill would not cover the case except the act was committed in the District of Columbia, and would come by that reason under the exclusive jurisdiction of the United States.

Mr. CRUMPACKER. That is a matter of accident only. Let me ask another question. Was President Lincoln, in the opinion of the gentleman, engaged in the discharge of the duties of his office at the time he was in attendance at Ford's Theater on the occasion of his assassination?

Mr. POWERS of Massachusetts. I should doubt if it could be construed that he was in the performance of his official duty.

Mr. CRUMPACKER. I agree with the gentleman.

Mr. POWERS of Massachusetts. Now, I want to say, Mr. Chairman, that I would gladly support a bill which protected the President from assault whether in discharging his duty or not. My sympathy is in that direction, and if I could reach the same conclusion that possibly the gentleman from Indiana may have reached, and that is that the law ought to go to that extent to protect the President as President, whether in the performance of his duty or not, and go to the extent of protecting the President whether the motive of committing the assault was by reason of any official act or not, I gladly would go to that extent. But on a close examination of the adjudicated cases, it seems to my mind clear that the court has drawn a marked distinction between the sovereignty of the nation and the sovereignty of a

State, and that we can not go beyond that mark without infringing upon the sovereignty of the State, which was so ably defended by my friend from Texas [Mr. LANHAM] yesterday.

In other words, when we seek to protect the Government outside the operations of the Government, then we infringe upon the sovereignty of a State where the constitution has vested the authority for the punishment of offenses of that kind. But if it be the judgment of this House that we can go to the extent of protecting the President as such whether or not in the discharge of his duty. I will gladly support that bill. I wish to say to my friend from Indiana that I reluctantly came to the position that we were bound to keep within the limit so forcibly expressed by the chairman yesterday. If you will allow, let me recall your attention to the message by President Harrison, I think in 1889, when he called upon the Congress of the United States to enact some law for the better protection of the Federal officers, confining that protection to them while in the discharge of their official duty. And the same has been true in every one of these cases. Take the Nagel case, the Siebold case, the Fisher case, the Tennessee or Davies case, and in every one of these cases the court has drawn that distinction between the exercise of the sovereignty of the United States and the exercise of the sovereignty of the State.

Mr. RAY of New York. And, if the gentleman will permit me, whenever the Congress of the United States, commencing back in 1790, immediately after the adoption of the Constitution, when it commenced, as it did in that year, to enact law for the protection of the officers of the Government, it read that condition into the law, engaged in the execution of their duties, showing their understanding of the limitations upon the power of Congress, and it has been carried into every act since without an exception. It is in every decision where the courts have construed the statutes and in every decision of the courts where they have defined or prescribed the criminal jurisdiction of the United States independent of a statute.

Mr. POWERS of Massachusetts. And if, Mr. Chairman, I may be permitted once more to refer to the provisions in the Constitution, the language is, "Congress may enact all laws that may be proper and necessary." Now, the question is, who are to be the judges of what laws are proper and necessary? I assume that judgment is vested in Congress; but it is limited, and it must be, to the law that is necessary and proper for the protection and enforcement of the sovereignty of the nation. It may not go beyond that extent, and if it be not necessary and proper that we should protect the President as an individual, when the motive for the attack or the assault upon him in no way depends upon or is based upon the fact that he is the Chief Executive of the nation, or by reason of any act that he has committed as Chief Executive of the nation, we must stop at that point,

I would gladly, as I have said, go to the full extent of giving the most ample protection that Congress has the right to give under the authority of the Constitution. Now, I want to say a word with reference to the criticism that was made yesterday by my friend from Texas [Mr. LANHAM] upon the third section of this bill, which seeks to extend the same protection to ambassadors and ministers accredited to this country and residing herein.

When this matter came up for consideration before the committee, I think that I had the honor of suggesting that as an amendment to the original bill. I did that for this reason. We were seeking to protect against the anarchists—what we call anarchists—we were seeking to protect the Chief Executive of the nation and those in the line of succession.

In other words, we did not go outside of the protection of the President and those that might be called upon to act in his place in the case of his removal. But it seemed to me that it was but gracious and proper that we should also protect the official heads of the different countries at the capital of this nation, and particularly so since the last sovereign that had fallen by the hand of the anarchists in the Old World appeared, by undisputed evidence, to have fallen by reason of a plot upon our own soil, and we could not do much less than to say that while we were protecting our President against the red-handed assassin that had struck down a sovereign of Europe, it was only right and proper that we should protect the official heads of foreign nations while they were under the protection of the United States Government; and I believe the members of the House will generally agree with that proposition.

When my friend from Texas [Mr. LANHAM] took up the Congressional Directory yesterday and read over the names of certain official representatives of the South American republics, giving to those names that peculiar pronunciation of the Spanish dialect which no man save one who had resided in a State where the Spanish language was originally spoken could have given, he said, "Why should we protect Señor So-and-so and Señor So-and-so and not protect the Speaker of this House?" I did not understand whether in saying that my friend went to the extent of saying that he stood prepared to protect the representatives of the great monarchies, but would not protect the representatives of the little struggling Republics in South America.

Mr. LANHAM. Will the gentleman allow me?

Mr. POWERS of Massachusetts. Let me finish the statement, and then I will yield.

I assume that the gentleman used that language in a purely Pickwickian sense. I know him so well as to know he has no sympathy with the monarchies of Europe and that he has all kinds of sympathy with the little republics of South America. I assume that he brought out this suggestion in order to show that there is no reason why we should protect these officials who represent these small nations that have no particular importance in the diplomatic circles in Washington.

Now I will yield to the gentleman.

Mr. LANHAM. It was not my purpose in the least to draw any such distinction as the gentleman suggests, but simply to show that we ought to be as good to our own officials in this Government as we are to the representatives of alien countries.

Mr. POWERS of Massachusetts. I did not assume that the gentleman had any such motives as he has now disclaimed, but I meant to affirm that in our diplomatic relations we can not recognize the great monarchies of Europe without recognizing and protecting the representatives of the little republics of the earth. We have got to treat them all alike. In other words, they stand as peers in the realm of the diplomatic circles here at Washington. Now, I want to say one word with reference to one provision in this bill which in my mind is not sufficiently drastic. I refer to the provision that wherever an assault is made upon the President of the United States with an intent to take his life it shall be punished by imprisonment, and imprisonment only. It seemed to me at the time this bill was under consideration in committee that whenever an assault is made upon the President of the United States, with a deliberate and premeditated purpose to take the life of the chief ruler of the people, the punishment ought to be death; and I suggested at the time—and it is my purpose when this bill comes up under the five-minute rule to offer an amendment—that wherever an assault of this kind is committed upon the President of the United States it shall be punished either by death or by imprisonment for life, as the jury trying the case may recommend.

I can understand perfectly well that there may be an assault made upon the President of the United States which will absolutely incapacitate him for the further performance of his duty, but he may survive the attack—may linger on for years; that blow has had its purpose and has incapacitated him for the performance of any further duty, yet under the provisions of this bill the punishment in such a case is to be only imprisonment—imprisonment for not less than twenty years. I feel that the jury should have the right to take into consideration all the circumstances under which the act was committed; that they should have the right to take under consideration the extent of the injuries inflicted, and if they see fit to recommend punishment by death that they should have the right to recommend such punishment.

Now, Mr. Chairman, I want to say one word with reference to the Senate bill. I firmly believe that the House bill is a far better bill than the Senate bill. I trust that this House will substitute the House bill for the Senate bill. I believe there are important questions of constitutional law connected with many of the provisions of the Senate bill, and which are of such a nature that we can not with safety pass that bill. It is not necessary that this House should undertake to pass a bill so drastic as to be pronounced unconstitutional. We can protect the operations of the Government and keep well within our constitutional limits, and I feel that this House bill should for that reason be substituted for the Senate bill.

There is one provision of the Senate bill which has caused more or less discussion throughout the country, and, so far as I know, has been received with some favor. It is the provision that the Secretary of War shall detail a bodyguard from the Regular Army for the protection of the President. Now, I want to say that this idea, though it may be novel, did not originate with any member of Congress, either of this branch or the other. That idea originated some time in the early part of the year, and first appeared in an address delivered by a very learned and scholarly gentleman, who is a judge of the circuit court in the first district, in an address delivered before the bar association of the State of New Hampshire. He undertook to demonstrate in that address that we can, by providing a bodyguard, absolutely protect the President of the United States; and he referred, by way of example, to the provisions which are made to protect the sovereigns of the different nations of Europe.

Now, if we have come to that point where we are going to undertake to legislate for the absolute protection of the person of the President, there are other and better ways to legislate than by guard system proposed under the provisions of the bill. Why, we might go to the extent of saying that the President during his

term of office should live in a fortress surrounded by soldiers; that no one should have access to the President but trusted subordinates, and that they should be searched before they enter therein. My friend, I think it was, from Maine [Mr. LITTLEFIELD] suggested that we might go to the extent of having a little fortress or castle upon wheels, which could be moved throughout the country like a cage, for the protection of the President.

To my mind the whole idea is un-American and uncalled for. I do not expect that if this bill, if enacted into a law, is going to have weight only by reason of the penal statutes that it contains, but it is going to have its moral force upon the American people. It is going to be an expression of the public opinion of this country that the people believe in stamping out anarchy and in stamping out every sentiment in favor of the forcible overthrow of the Government of the United States or the government of any country. It stands as an expression of public opinion, and, Mr. Chairman, what is the foundation of the Government of this nation but the expression of public opinion? Why, our Federal Constitution and the constitution of every State in this Union can be changed, directly or indirectly, through the ballot box. The people are sovereigns. If they want to change their Constitution, they have got the right to do it. If they want to change the constitution of any State, they have the authority, through the ballot box, acting either directly or indirectly, to change it; and they can change every constitution, every Federal statute, and every State statute through the power which they have in the manhood suffrage which exists in every State in this Union.

Now, it is not so in the case of the countries across the sea. In England the landed estates have controlled the politics of that country for six centuries. Not so with us. We have no property qualification and we have no educational qualification in any State excepting a few, and there the educational qualification is one which a schoolboy of 10 years of age could easily comply with. Why, when these anarchists talk about the forcible overthrow of government they do not take into consideration that this Government exists at the pleasure of the people, and whenever the people want to change this form of government they have the right and authority to do it. Whenever they want to change our Constitution they may do it.

Whenever they want to change any law they may do it, and the people, it seems to me, in this country have demanded that there shall be a law—a law, not only because it will have its effect by reason of the penal elements that the law will contain, but because it will go upon our statute books as the public expression of 80,000,000 of people that they will not entertain and they will not harbor a sentiment that looks to the forcible overthrow of the Government of the people, and that is exactly where we stand on this proposition. We say that there is not the slightest reason to suppose that these anarchists or nihilists, as they were formerly called, who fifty years ago came into existence in Russia under a form of oppressive government, are going to get a foothold in America. Why, our public-school system will sooner or later overthrow them. Public sentiment will overthrow them. Last year the United States expended for the free compulsory education of its children more money than was expended by Great Britain, Germany, France, Spain, Italy, and Belgium combined. What does that mean?

It means that the Government of the United States stands prepared to educate an intelligent citizenship, and an intelligent citizenship knows that the highest personal liberty must exist in a good government; that a good government is that government which takes from no individual any more of his rights and privileges than are absolutely necessary for the protection of his life, his liberty, and his property. I trust, Mr. Chairman, that the bill which has been framed by the House committee, with all its safeguards, with all its provisions—that of looking after immigration—with its provisions for undertaking to ferret out this sentiment against government wherever it exists, and, more than that, with its provisions carried to that extent that they will accomplish the purpose and at the same time do not interfere with the liberty of speech or with the liberty of the press, will become a law.

In a few years from now we will look back upon this scene and will regard it a remarkable circumstance that after more than a century of free republican government in America Congress was forced to take into consideration the enactment of law to better protect its chief ruler against assassination by those who would strike him down in the name of liberty.

The country to-day simply asks this Congress to put upon the statute books some expression of the sovereignty and the will of the people, which they ask shall be enforced to its farthest for the protection of our institutions, for the protection of freedom and liberty, and for the advancement of mankind. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. VAN VOORHIS having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills and joint resolution of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5491. An act granting an increase of pension to John R. Sandsbury;

S. 2295. An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes; and

S. R. 111. Joint resolution limiting the gratuitous distribution of the Woodsman's Handbook to the Senate, the House of Representatives, and the Department of Agriculture.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 9597. An act for the relief of Thierman & Frost; and

H. R. 720. An act for the relief of Lieut. Jerome E. Morse.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 11249) granting an increase of pension to Katharine Rains Paul.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 312) providing that the circuit court of appeals of the eighth judicial circuit of the United States shall hold at least one term of said court annually in the city of Denver, in the State of Colorado, or in the city of Cheyenne, in the State of Wyoming, on the first Monday in September in each year, and at the city of St. Paul, in the State of Minnesota, on the first Monday in June in each year.

PROTECTION OF THE PRESIDENT.

The committee resumed its session.

Mr. RAY of New York. I now yield to the gentleman from Pennsylvania [Mr. MORRELL] five minutes.

Mr. MORRELL. Mr. Chairman, the provisions of this bill may be divided into two classes, those that provide for the punishment of the overt act, both in the case of the principal and in the case of his accessories, and those which are framed to prevent the repetition of the crime that resulted in the death of the late President William McKinley.

To my mind the people of the United States are most concerned in those provisions which prevent the repetition of such a crime.

No one can possibly find fault with the speedy and dignified manner in which the officials of the State of New York visited justice upon the assassin of our late President.

Special inquiry from those who are conversant with the methods employed in Europe against the so-called party of anarchists, and consultation with lawyers of eminence in this country who have given this subject a great deal of thought, have resulted in my coming to the conclusion that special legislation against the possibility of a recurrence of a crime of this kind, except in the case of persons who are considered of unsound mind, is injudicious, and it is unwise to admit the possibility of the existence of such a class of people under the freedom and liberty which is guaranteed by the Constitution of the United States.

No one will deny for a moment or would take exception to the statement that anyone holding what are called extreme anarchistic views is a person of unsound mind. I do not refer to those who are attracted by such doctrines simply from the honor and eclat that they might get, or from the possible benefits that might accrue to them. But I do feel that it is only proper to consider those persons who enunciate anarchistic doctrines as persons of unsound mind. I therefore give notice of and ask unanimous consent to have printed in the RECORD an amendment which I propose to offer at the proper time, on page 5, section 8, after line 22, striking out all to the bottom of the section and inserting a paragraph which shall read as follows:

That any person who advocates—

And so forth—

shall, upon conviction by the proper court, thereafter be considered a dangerous lunatic, and his property shall become subject to the courts which administer the estates of persons of unsound mind.

Nobody wants to be considered of unsound mind, and in my judgment no greater punishment could possibly be imposed upon an individual for any crime than to class him and to incarcerate him among a body of men who really are lunatics, as a dangerous lunatic. Even those that we meet in insane asylums are actuated as their principal object to try to explain that they are of sound mind and not of unsound mind. I therefore feel that we could not impose a greater hardship or a more severe punishment upon those who express doctrines which every one of us believe to be the emanation of an unsound mind than to incarcerate them in an insane asylum.

I ask unanimous consent to have this amendment printed in the RECORD.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to print in the RECORD an amendment which he proposes to offer at the proper time. Is there objection?

There was no objection.

The amendment is as follows:

On page 5, line 22, strike out all after the word "act" and insert the following:

"Shall, upon conviction by the proper court, thereafter be considered a dangerous lunatic, and his property shall become subject to the courts which administer the estates of persons of unsound mind."

Mr. LANHAM. I yield one hour to my colleague on the Committee on the Judiciary, the gentleman from Wisconsin [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, some legislation on the subject now before the House is demanded by the people—not as a matter of sentiment, but as a matter of right and justice. The demand is not limited by geographical, political, or religious lines. It is not a sectional demand, but a call from all parts of the nation: from all classes; from the people to their representatives for full national legislation on this subject, and the unanimity shown with reference to it is the highest evidence that the people believe this to be a nation with national powers, having a Congress willing to execute the will of the people to the utmost of its constitutional powers and write into the statute book their express wishes in this regard.

That reconciliation has been brought about between all sections of the nation, and any attack upon the nation will conclusively show not only that the people are united in their love of country, but that the attack will be resented by all its citizens, and the blood of the people will quicken in defense of the nation, whether the heart beats in the cold blasts of the North or under the sunny skies of the South.

Measures of this kind show the difficulty of legislation. At the opening of this Congress the average person throughout the country was of the opinion that any bill presented on the subject would pass not only early but without opposition, but when the practical work commences the opposition and difficulties appear.

Discordant elements are expected to present a united front. Report a bill sufficient in law and detail for the purpose intended and to satisfy an expectant public, but at the threshold we are met with the question of want of power in Congress, the wisdom or need of the legislation if the power exists, and a compromise must be reached of such extreme views that will permit of united action.

I accord to all those who oppose my views honesty of purpose and as devoted to our common country as I am. Neither do I question their judgment or motive, and I know that they honestly and firmly believe themselves right, as I do.

I do not question the loyalty of those who represent a constituency that believe in the doctrine of State rights. Neither do I question the loyality of the constituency they represent. I simply think they are wrong on this great question, and firmly believing in the loyalty of the people of the South, I am convinced that they will insist that their representatives should contend for and support the doctrine that this National Government has the power to punish the person taking or attempting to take the life of the President of the United States, and that Congress should exercise the full limit of that power without limitation, condition, or qualification.

So that my views may be better understood, I desire to refer to what I have heretofore said as to the proper relations between the several States and the General Government:

Long since the people of the reconstructed States became reconciled to the restoration of their States to their constitutional relations to the Union, and from the close of the war there was never any doubt in the minds of the patriotic, liberty-loving Union people of the United States but that the people of the reconstructed States wanted to return to their political duty as citizens of a common country and do their best to make this nation all our forefathers intended it should be, but were prevented from making it by causes forcing themselves upon the convention. We are now in truth and in fact a reunited people, a nation composed of the several States of the Union, and the time has come in American history when the distinction between Federal and State rights should no longer exist, but all should be classed as citizens of the United States cooperating for the common good, recognizing the just powers of the nation and the constitutional rights of the several States, without any intention to impair the one or invade the other.

Much work remains to be done. These questions can not be settled as long as the people are sectionally divided. Sectionalism must never return. It is our duty to-day to do all we possibly can to prevent it. Earnest efforts must be continued for the upbuilding of the nation for the common good of all. Keeping steadily in mind the equality of the States and equality of all before the law, allowing each elector and each State to exercise constitutional rights without force or denial, answerable to a higher power and intelligent surroundings, peace and prosperity will be with us as a nation. (June 1, 1898, CONGRESSIONAL RECORD, Fifty-fifth Congress, second session, vol. 31, part 6, p. 5404.)

Mr. Chairman, I do not think any apology is necessary from anyone who desires to support a measure that will protect the life of the President of the United States; but I do not want any gentleman here this morning to think that I am fully in accord with the views of the gentleman from Texas simply because we, who from a high sense of duty are compelled to oppose the House bill, are also compelled to go to the Democratic side of this Chamber to obtain recognition to express to this House our views on this great question.

I speak this morning from a high sense of legal and representative duty. If I did not feel this question very keenly, I would not occupy the time of this House in discussing this question; but having been assigned, under the rules and procedures of this House, to the committee that reported this measure, I feel it to be my duty to bring to this House all the experience I have obtained as a member of this committee, to assist this House and the country in regard to this question, whether it is in accord with the views of the majority of the committee or not.

As I say, if I did not feel it to be a sense of duty I would not take the time of this House in discussing this question. As I understand the question here to-day, so far it has not been presented to this House on constitutional or legal grounds, and so far as the report of the committee is concerned, I stand alone. But I want this House and the country to understand that the views I express are peculiar to myself. I do not want them to understand that so far as the report of this committee is concerned it is sustained by a single member of the committee.

But I believe, Mr. Chairman, that I am right, and I want it distinctly understood that while I stand alone here so far as this question is concerned, I am standing here and taking the time this morning in the interest of the Republican party, and I am standing here also in the defense of national power, and standing here this morning in defense of the power of Congress. I am in favor of legislation expressive of the powers of Congress sufficient to satisfy the urgent demands of the people without being rash, extreme, or radical, not doing to-day what the country to-morrow will disapprove of.

But, Mr. Chairman, the bill under consideration does not come up to my expectations. It does not represent my views; it does not represent a single principle of the Republican party, not a single one. It has absolutely denied to this great representative legislative power the powers that the Constitution has conferred upon it, and it tends expressly to limit the powers and impair the powers of the nation.

The bill does not go far enough, according to my views of this question. Failing to go far enough in one direction, so far as upholding the full and just powers of this Government are concerned, it starts off in another direction and adopts, in my judgment, unconstitutional measures. It also adopts measures that are extreme, and, while they might be constitutional, are absolutely unnecessary. There has been so much discussion in regard to the powers of government since this bill came before the House on yesterday that we might almost understand that there is no national government.

Now, I want it distinctly understood, so far as I am concerned, that I am not satisfied with it, but I believe this House when it becomes familiar with the measure will not approve of this bill. The Republican party, by their representatives here assembled, can never afford to give their approval to it by their votes—no person can deny to-day but what we have a national government. I want to refer to the Articles of Confederation and the Constitution of the United States as expressive of the power to-day of this Government.

The opening words of the Articles of Confederation, that were in force in this country prior to the adoption of the Constitution, read as follows: "Articles of Confederation and Perpetual Union;" and conclude with these significant words, "fully and entirely ratify and confirm each and every of the said Articles of Confederation and Perpetual Union."

The opening words of the Constitution of the United States are as follows:

We, the people of the United States, in order to form a more perfect Union.

Here, Mr. Chairman, we have the significant statement in the Articles of Confederation and the Constitution of the United States that we have a "perpetual union" made "a more perfect union," and there ought no longer to be any question about the powers of this nation.

But conceding at the outset, for the purpose of this discussion, that we have a dual system of government—and no one appreciates the situation more fully than myself; that we do have a dual system of government—a government of the States and a government of the United States. I am willing to concede with my learned friend from Texas that the Federal Government is a government of limited powers. If you want to find out whether or not the Federal Government can exercise a power, you have to resort to the Constitution of the United States in order to determine whether or not Congress can act. I do not disagree with some of the statements made by my friend from Texas, and while I disagree largely in some matters, I want to say to this House, inasmuch as the gentleman said on yesterday that this was possibly his last speech in this House, as he expects to go to his State and perform State duties, that we never had an abler, a more honest, intelligent, or a more conscientious man on the floor of this House than the gentleman from Texas [Mr. LANHAM].

And when he spoke against this bill he spoke from the bottom

of his heart as one of the greatest and closest friends that President McKinley ever had. Do I not remember well that, sitting with the gentleman from Texas [Mr. LANHAM] and the late President McKinley, as he was calling attention to the fact how fast the members of Congress they had associated with were passing away, the tears came into the eyes of my friend from Texas when those two able men were discussing the fact that they were almost left alone? We did not think then that within a few short days the hand of the assassin would remove the late President McKinley and leave my friend from Texas practically alone.

I think I have a right at this time to say these few words in indorsement of my friend from Texas, and I know it pained his heart to antagonize this bill, simply from the fact that he loved—absolutely loved—the late President McKinley, and would go further than any other man I have met to do honor to his memory. But as we start into this important discussion we are confronted with the old doctrine and the old question of State rights.

I know there has always been, and there always will be, gentlemen of different minds on this great question. I have no fault to find with my friend from Texas [Mr. LANHAM] for his views raised in the atmosphere of State rights; but when the gentleman from New York [Mr. RAY] and his Republican colleagues deny to this National Government the power of protecting the President of the United States at all times and under all circumstances, I disagree with them.

I think I have a right to exercise my judgment as a Representative on this floor in regard to this question. I have no words with my Democratic friend, who has been raised and educated to the belief that the States are more powerful than the National Government, but I have no sympathy with my Republican colleagues who will join in the doctrines and policies of the gentleman from South Carolina, the late John C. Calhoun, and deny the Congress of the United States to-day the power under all circumstances and at all times to protect the President of the United States.

No one can justly charge me with desiring to uphold the nation at the expense of the State, or of impairing the power of the State as the same existed when the Federal Constitution was adopted, or with any desire of interfering in any manner with the rights and liberties possessed by the people before the adoption of the Constitution, strengthened by the adoption of the Constitution. My colleagues on the Judiciary Committee, and particularly the gentleman from Texas [Mr. LANHAM], will have to defend me in this proposition, that I have always believed in the doctrine that the police power of this Government should be exercised by the States and never should be divided, and I uniformly have stood upon that position.

I am absolutely and utterly opposed, as I have said, to impairing the powers of the nation, and also to invading the just powers of the State. But, Mr. Chairman, there is a vast difference between taking away the just powers of the State, or encroaching upon their rights and prerogatives, and exercising the constitutional power of Congress to make it a crime to murder the President of the United States. We are not standing here to-day, as my very able and ingenious friend from Texas would have you understand, to distinguish one man from another. That is not our position. That is not our doctrine. We are simply standing here to-day in defense of the constitutional right and power of Congress.

Mr. LIVINGSTON. Will the gentleman allow me an interruption?

Mr. JENKINS. Yes, but my friend will have to get a little nearer, for I can not hear him.

Mr. LIVINGSTON. I understand my friend to say that he is in favor of the States exercising all the police powers under the Constitution. I would like to ask him if he voted for the oleomargarine bill? [Laughter.]

Mr. JENKINS. Mr. Chairman, I do not want to be interrupted by any silly question, and I think I am justified in making that reply to the gentleman from Georgia. I want to say that if anyone has any question he desires to ask with reference to the matter under discussion, I will gladly yield.

Now, Mr. Chairman, I was about to say, when interrupted by my friend from Georgia, that it is impossible for Congress to-day to take away any of the power of the States. There is no attempt on the part of gentlemen advocating this bill, whether we agree or disagree, with reference to its various provisions, to take away the just powers of the State.

The only power the Federal Government has got to-day it derives from the Constitution created by the State, and if we want to exercise a power to-day which we do not enjoy under the Constitution we have got to go to the several States and obtain from them the necessary power, or it does not exist. But it is more appropriate now than at most any other time for us to remember that we are not State rights men. We are not Federalists, we are American citizens, conceding to the States every power that they enjoyed and have never parted with; and, on the other hand, it is our bounden duty to uphold every power possessed and enjoyed to-day by the Federal Government.

We are not seeking to take away any power of the State. We are seeking to-day to exercise the just and constitutional powers of Congress, trying to supplement the power of the State in the suppression of crime. Now, I want to direct a few moments to the report of the committee, or perhaps to the remarks of the gentleman from New York [Mr. RAY] that found expression in the report of the committee.

Mr. BARTLETT. Mr. Chairman, may I ask the gentleman a question in reference to this bill?

Mr. JENKINS. Certainly.

Mr. BARTLETT. I want to know if he agrees with the gentleman from New York in reference to his argument as to the right to protect the President, why should the law be extended down and include all the different heads of departments that may succeed to the Presidency? If the argument of the gentleman from Wisconsin is correct for the purpose of protecting the President, why go farther down the line?

Mr. JENKINS. If my friend will bear with me a few moments I think he will understand my position. I can not make my speech all in one minute. But I will say to my friend from Georgia that so far as concerns the question which he has just suggested, I disagree entirely with the report of the House committee. I think there is a limit, and if the gentleman from Georgia will read the substitute which I propose to offer it will be discovered that I am in accord with his views.

Mr. LITTLEFIELD. The gentleman says he "thinks there is a limit." Will he be kind enough to state what he thinks the "limit" is?

Mr. JENKINS. Well, my dear friend, I can not make all my argument at once.

Mr. LITTLEFIELD. If you have the full control of your intellectual faculties, there is no reason why you should not answer the question.

Mr. JENKINS. I will answer, I think, in the course of my remarks, to the satisfaction of the gentleman from Maine.

Now, Mr. Chairman, in order to simplify this matter, I will ask that there be read in my time a bill that I have introduced which expresses my views on this question.

The Clerk read as follows:

A bill (H. R. 14695) for the protection of the President, Vice-President, and any person acting as President of the United States.

Be it enacted, etc., That every person within the United States or any place under the sovereignty of and subject to the jurisdiction of the United States who knowingly, willfully, and maliciously kills or attempts to kill the President of the United States or the Vice-President of the United States, or any person acting as President of the United States pursuant to the Constitution and laws of the United States, shall suffer death.

SEC. 2. That every person within the United States or any place under the sovereignty of and subject to the jurisdiction of the United States who aids, abets, causes, procures, commands, or counsels another to kill or attempt to kill the President of the United States, or the Vice-President of the United States, or any person acting as President of the United States pursuant to the Constitution and laws of the United States, shall suffer death.

SEC. 3. That every accessory to any one of the offenses mentioned in this act shall, upon conviction thereof, be punished by imprisonment at hard labor not more than twenty years.

Mr. JENKINS. Now I will yield for the question of the gentleman from Maine.

Mr. LITTLEFIELD. This bill of the gentleman does not provide for the protection of officers who are in the line of Presidential succession?

Mr. JENKINS. No, sir.

Mr. LITTLEFIELD. Are we to gather from the gentleman's statement that he does not think we have the power to protect those officers, or that he simply believes it is not politic to undertake to do so? I only wish to understand the gentleman's legal position.

Mr. JENKINS. I will say to my friend that the bill which I have just had read goes to the very extreme limit.

Mr. LITTLEFIELD. So that, if I understand the gentleman correctly, we have not, in his opinion, the power to protect the officers in the line of succession farther than provided in the bill?

Mr. JENKINS. In other words, the bill just read is expressive of the full power of Congress in this respect.

Mr. LITTLEFIELD. And if we undertake to exercise the power to protect the officers in the line of succession, such a bill, as I infer from the trend of the gentleman's argument, would, in his opinion, be an infringement of the powers of the State? That is the gentleman's proposition, is it not?

Mr. JENKINS. Just so far as their relation to the Presidency is concerned. I do not want to have that matter confounded with the other proposition.

Mr. LITTLEFIELD. Then when we come to the case of an officer in the line of succession, the terrible bugbear of State rights intervenes and prevents Congress from taking cognizance of those officers. Is not that the result of the gentleman's proposition?

Mr. JENKINS. Well, I can not make my whole argument now, but I want to have it understood that there is a distinction in my mind between the other officers of the Government and those in the line of succession. That distinction I will try to make clear as I proceed.

Mr. BARTLETT. Are we to understand that the gentleman from Wisconsin [Mr. JENKINS] proposes at the proper time to offer the bill just read as a substitute for the bill of the committee?

Mr. JENKINS. I do.

Now, Mr. Chairman, I was discussing the position taken here, I may say, under the leadership of the gentleman from New York [Mr. RAY]. That will better express the idea than anything else I could say. What I understand is that the majority of this committee—every gentleman of the committee except the gentleman from Texas and myself—insist that Congress has no power to punish offenses against officers of the United States, unless engaged in the performance of official duties, or because of their official character, or because of official acts done or committed.

Now, here is where I divide with the learned chairman of my committee. My insistence is, as I have said and will endeavor to make clear, that the Congress of the United States has express power under the Constitution of the United States to protect the President of the United States at all times, asleep or awake, whether he is in the discharge of his official duties or doing duties that are nonofficial, without qualification, without limitation, and without resorting to all of the uncertain language of the bill. And I want also to call attention to the fact that the gentlemen who are supporting——

Mr. RAY of New York. Mr. Chairman, may I ask my colleague a question?

The CHAIRMAN. Does the gentleman yield?

Mr. JENKINS. Certainly.

Mr. RAY of New York. Supposing the President of the United States should so far forget himself—just suppose a case——

Mr. JENKINS. I wish to state to the gentleman, Mr. Chairman, that this time must be given to me if he wants to take up my time.

Mr. RAY of New York. Certainly; but I want to ask the gentleman this question: Supposing that the President of the United States should so far forget himself some time—our present President would not, but some might—that he should go up to Chicago, a wicked city, and go out with the boys, incog, disguised, get full, nobody knowing he was President, nobody knowing who he was or anything about him, and suppose he gets into a fight in some low-down saloon, and some fellow, angered at him, because of something he does there, kills him. Do you think that the Federal jurisdiction is so broad that it may in that case take hold of the offender and punish him, based on the simple fact that this man—the President, in fact, incog, and in that place, under these conditions—was slain by somebody in a petty quarrel?

Mr. JENKINS. Mr. Chairman, I want to say to my friend that the American people have never yet and never will elect a man that will so lower himself, and I regret that the chairman of this committee has ever asked such an unreasonable question to bear out his views.

Mr. RAY of New York. There you have it. I knew that the gentleman would dodge the question.

Mr. JENKINS. I will not dodge the question, but I have a high respect——

Mr. RAY of New York. Just answer the question.

Mr. JENKINS. I have a high respect for the President of the United States.

Mr. RAY of New York. Then answer the question.

Mr. JENKINS. I would not answer any question that so disgraces the high office of the President of the United States.

Mr. RAY of New York. That is not an answer to the question.

Mr. JENKINS. If I do not answer it to the satisfaction of the gentleman from New York, before I get through I will answer it to the satisfaction of the country, but I will not answer any question that so lowers and disgraces the high office of the President of the United States. [Applause.]

Mr. RAY of New York. Yes; that is just it. That presents simply the proposition——

Mr. JENKINS. Mr. Chairman, I want protection.

The CHAIRMAN. The committee will be in order.

Mr. RAY of New York. And the gentleman declines to answer it?

Mr. JENKINS. I will not answer anything so disgraceful and so disrespectful.

Mr. RAY of New York. Because the gentleman can not answer it, and does not dare answer it.

Mr. JENKINS. Now, Mr. Chairman, I want to say in defense of that position that the American people, while they may divide politically, have never made any mistake as far as the high character was concerned of the Presidents of the United States. I want to tell you all the way down through they have been men that will always live in the history of this country. I am going to get along, and I want the gentlemen present to understand that if there is any gentleman on this floor who wants to ask a question that has any merit in it, any decency in it, or any intelligence in it, I want to answer it, and I stand here prepared to do it; but I do not propose to stand here and be charged with cowardice and inability to answer a question that is asked me here simply because I refuse to answer it on the ground that it is disrespectful to the highest office the people of the United States enjoy.

Mr. RAY of New York. Then let me ask the gentleman——

Mr. JENKINS. Mr. Chairman, I want protection.

Mr. RAY of New York. Now, Mr. Chairman——

Mr. JENKINS. I want to be permitted to make my argument.

The CHAIRMAN. Does the gentleman from Wisconsin yield?

Mr. JENKINS. Certainly not.

Mr. RAY of New York. The gentleman just said he would; he just said that he would answer any questions.

Mr. JENKINS. Mr. Chairman, when I have got to go to the Democratic side of this Chamber for an opportunity to present my views on the question I do not want to waste my time on the gentleman from New York. [Laughter.] It is the first and only time I have ever had to go to the Democrats for a favor, and if it had not been for the gentleman from Texas [Mr. LANHAM] I would never have enjoyed the opportunity of addressing the House on this occasion.

I was saying, Mr. Chairman, when I was interrupted, that the Judiciary Committee has confounded this whole question. It has placed the President in the same category as a deputy marshal, and I want to ask any gentleman here who honored the chairman of my committee yesterday by listening to his address, if the chairman of this committee or any gentleman who has addressed the House so far on this question referred to the Constitution of the United States? Not a word of it.

They never referred to the Constitution of the United States, but absolutely ignored it, and that is the source of our power. As I have said, if we do not find the power in the Constitution of the United States, then Congress has no power to act. But they ignored that and never paid any attention to it.

And, as I say, they have placed the President of the United States, with his great duties under the Constitution, in the same category as a marshal or a deputy marshal of the United States, confounding the whole subject and mystifying it, if it is possible to mystify it, from the language used.

I want to notice the inconsistencies as presented here by my learned friend from New York [Mr. RAY] and as supported by the report of the committee, which I understood he drew. The position of the gentlemen who oppose me is that any bill of this character is absolutely unconstitutional unless it provides, with all of these qualifications, for the killing of the President. In other words, it is unconstitutional to provide in general terms for the killing of the President of the United States.

Mr. LITTLEFIELD. May I beg the gentleman's pardon?

Mr. JENKINS. Certainly.

Mr. LITTLEFIELD. I think that possibly inadvertently the gentleman stated his proposition wrongly. He did not contemplate any bill that provides for the killing of the President, but he contemplates a bill that prohibits the killing of the President. Inadvertently he stated it the other way.

Mr. JENKINS. Of course, the gentleman takes a contrary view of this question from myself, and so I am not surprised when he does not agree with me.

Mr. LITTLEFIELD. Inadvertently, perhaps, you stated your proposition wrongly. You refer to the bill as providing for the killing, but what you mean is a bill that prohibits the killing. Am I not correct about that?

Mr. RAY of New York. I think not, because the whole argument is based upon the other proposition.

Mr. JENKINS. Mr. Chairman, I should like to be protected against the gentleman from New York for a few minutes. I listened to him for pretty nearly three hours yesterday without interrupting him, and unless he has a sensible, reasonable question to ask, I want to ask him not to interrupt me.

Mr. LANHAM. We are engaged in the business of protection here, and so the gentleman ought to be protected. [Laughter.]

Mr. JENKINS. It does not make any difference whether I misspoke myself or not. I meant to speak correctly; but I think my friends around me will appreciate that it is very difficult to discuss a great legal and constitutional question like this with constant interruptions and irrelevant questions. But I understand my friends to argue that it is unconstitutional to pass a bill in general terms providing for the protection of the President of the United States, and that in order that Congress may protect the President there has to be qualifying words in the bill; that is, that you must kill him when he is engaged upon some official duty, or you must kill him because of his official character, or because of some official act or omission.

And yet at the same time my friend from New York [Mr. RAY] argued yesterday—and I want to call him my friend notwithstanding his opposition to me—that the President is always in the discharge of his duties. Now, when I first came to Washington to attend the opening of this session of Congress, one of the ablest men in this country came to me and said, "I understand you are interested in this question, and I want to tell you that the President is at all times in the discharge of his duties." We had a controversy, and only a few days ago he sent me a note to say, "I have reconsidered that doctrine and I join you in what you said, that it is nonsense to argue that the President of the United States is always in the discharge of his duties." The President of the United States is no more always in the discharge of his duties than any other official, and I do not propose to rest this great power on the narrow doctrine that the President of the United States is always in the discharge of his official duties.

But my friends opposed to me go further, and while they insist that he is always in the discharge of his duties, the report says, although my friend did not discuss it yesterday, that the courts would always hold that he is always in the discharge of his duties, a position which is not true. But he goes further than that, and then introduces what is called section 13 in the bill changing the order and burden of proof. And the other day when he was assaulting me for taking away the right of trial by jury, when he was standing here saying that he always stood in defense of the liberties of the people, I wanted to ask him why he wanted to change the organic law of this country and say that for the purpose of protecting the President of the United States we will wipe out a rule that has been observed by all civilization, changing the rule and saying the burden is upon the defendant to exonerate himself.

The section does not help it. But look at the inconsistency of the position: First, that it is necessary to introduce qualifying words into the bill; second, that the courts will always hold that the President of the United States is at all times in the discharge of his duties; third, that if there is any attempt when he is not in the discharge of his duties we can not protect him; fourth, that we have introduced section 13, and by it have said as a matter of law that the President of the United States is always in the discharge of his duties. I want to say to my genial and able friend from Texas——

Mr. LITTLEFIELD. At the risk of not putting a proper question—I do not want to disturb the gentleman, but I would like to have the gentleman examine that section 13——

Mr. JENKINS. I can not discuss this whole question at once. I am coming to it.

Mr. LITTLEFIELD. Right on the point you are discussing. I understand you state that that section stands as a presumption of law.

Mr. JENKINS. I have not come to that, and if I do not answer the point you have in your mind before I get through, you please call my attention to it.

Mr. LITTLEFIELD. The gentleman at the present referred to that section.

Mr. JENKINS. Oh, no; you are wrong.

Mr. LITTLEFIELD. Now the gentleman is discussing——

Mr. JENKINS. The gentleman proposes to apologize for the bill?

Mr. LITTLEFIELD. The gentleman need have no apprehension of any apology the gentleman will make.

Mr. JENKINS. I have none. Before I get through I will come to that section.

Mr. LITTLEFIELD. The gentleman knows I am not responsible for that section. Before you get through I wish you would be kind enough to call the attention of the committee to the language that makes it a presumption of law that is not refutable, that the President is always in the discharge of official duty.

Mr. JENKINS. If my friend had listened to the argument of the gentleman from New York, or only read it, as I have, he would have discovered from his statement that it is a presumption of law.

Mr. LITTLEFIELD. I discovered it was a presumption of fact, and that is refutable. Discuss it right now and answer it.

The CHAIRMAN. Does the gentleman yield to the gentleman from New York?

Mr. RAY of New York. The gentleman must not misrepresent "the gentleman from New York."

Mr. JENKINS. I will state to the gentleman from New York that I want to be permitted to discuss this question.

Mr. RAY of New York. But the gentleman from Wisconsin——

Mr. JENKINS. I decline to yield to the gentleman from New York. I can not stand here——

Mr. RAY of New York. But, Mr. Chairman——

The CHAIRMAN. The gentleman from Wisconsin declines to yield.

Mr. RAY of New York. That all may be, but he must not misrepresent "the gentleman from New York."

The CHAIRMAN. But the gentleman declines to yield.

Mr. JENKINS. I listened for three hours to the gentleman from New York yesterday as he misrepresented the law, and I want to be permitted the same latitude. [Laughter.]

Now, then, Mr. Chairman, with these preliminary remarks, I want to call attention to the fact that in this great discussion one of the most important questions that ever came before this House, that no gentleman has yet discussed, is the powers of Congress; and that is what I propose to call attention to. As I have said, I concede a dual system of government. I concede with my friend from Texas that if Congress wants to exercise a power it must resort to the Constitution of the United States to determine the right to exercise the power; and therefore I am going to call attention now to this constitutional question.

I want to do it, because my friends who are standing here in support of this bill have entirely and absolutely ignored the Constitution of the United States, and have said that they rest their positions upon the decisions of the Supreme Court of the United States. I want to say here with respect to their statement, and I do not want to insult any gentleman, that if you look until you are so old you can not see you will never find a single parallel case; you will never find a case decided by the Supreme Court of the United States, or any other court, holding that Congress can not pass a law to protect the President of the United States.

The cases that they state are mere ropes of sand, and I propose in my brief argument to call attention to the point plainly and so pertinently that every gentleman will concede that on this question those who rely upon the decisions of the Supreme Court of the United States have got no foundation whatever.

I propose, instead of giving decisions of the Supreme Court of the United States, to invite the attention of the House upon this question to the Constitution of the United States as to the powers of Congress. I concede, and want it understood, that my position is that every power is expressed, every power is enumerated, and that the power that I am insisting upon is not only expressed, but broad enough to protect us and to justify my position. Now, then, look at the powers conferred upon Congress with reference to this officer.

I have not time, Mr. Chairman, to enter into a discussion of where the line of demarcation should be drawn between the President of the United States and the smaller officers so numerous in the United States. I am only contending to-day and undertaking to justify this position, that the Congress of the United States has got ample, expressful, and plenary power to protect the President of the United States if he is shot down ruthlessly in any State of this Union without reference to the powers of the States or the rights of the States.

I do not want to go so far and be so extreme that I can not get my Democratic friends to stand on my platform. I propose to be absolutely fair in my legal position here. I think that every gentleman, no matter what his views may be with reference to State rights or Federal powers, can all agree upon this great proposition.

But I want to invite attention now to the powers of Congress. Among the enumerated express powers conferred upon Congress is to raise and support armies, to provide and maintain a Navy, and to make rules for the government and regulation of the land and naval forces. I want to invite attention to the Constitutional power conferred upon the President of the United States so as to distinguish that high and great office from a deputy United States marshal.

The Constitution of the United States confers upon the President of the United States the following enumerated express powers: First, he is Commander in Chief of the Army and Navy. He has the exclusive power over and control of the Army and Navy, so extensive that when war is declared Congress can not stop the war only by refusing appropriations. The President and Senate can, by treaty, stop the war. The President of the United States is also required to give opinions in writing; he has the power to reprieve and pardon; he has the power to make treaties, nominate officers, give information to Congress, and even to adjourn Congress, receive ambassadors and ministers, see that the laws are faithfully executed, and commission all officers of the United States.

Now, then, passing that, Mr. Chairman, and coming down to another provision of the Constitution, which was briefly referred to by my friend from Massachusetts [Mr. POWERS], Article I, section 8, subdivision 18, says:

> To make all laws that shall be necessary and proper to carry into execution the foregoing powers and other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

This is a very comprehensive provision. What did Chief Justice Marshall say with reference to this great provision of the Constitution? In the case of McCullough against Maryland (4th of

Wheaton, p. 360), in order to determine as to the power of Congress in this regard: "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional."

One of the greatest men that ever sat in this House, John Randolph Tucker, of Virginia, wrote a work on the Constitution of the United States that ought to be read by every lover of government; and what did that great man say with reference to this provision and with reference to this opinion of the great chief justice of his State? I appeal to my Democratic friends to consider what that jurist said with reference to this provision, because it will help them in the discharge of their great political duty now.

He said that this canon of construction is not in the interest of strict construction but a fair and liberal one. This will be found in his work on page 361.

Now, I want to say to my friends who are doing me the honor of listening to me on this occasion that if you want to find out whether Congress can act you must resort to the Constitution of the United States to find whether any power is conferred on an officer of the Government, upon any department of Government, or upon the Government of the United States, or upon the Congress of the United States. It is worth while to reread Article I, section 8, subdivision 18 of the Constitution:

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by the Constitution in the Government of the United States or in any department or officer thereof.

Let us go back a very little and see, Mr. Chairman, as to the power of Congress. That power which I have just read is the general power which authorizes Congress to make all details necessary to make every one of the powers in the Constitution operative and effective. I say that because I do not think there is any gentleman on the floor of this House, I do not care how democratic he may be, I do not care how much he may be wedded to the State rights doctrine, but at the same time he has got a kindly feeling for the power of the Federal Government. and he knows that it must be exercised, and that at times it ought to be exercised. I think I might say in passing now, Mr. Chairman, that we are not trying to usurp any powers of the State. Whatever we are doing here to-day is in obedience to the power and demand of the people of this nation.

I know that when I left my home every Democrat, every Republican, every Catholic, and every Protestant demanded of me that I do what I could to have Congress pass some legislation to protect the life of the President of the United States, and when I first had the pleasure of meeting one of my colleagues, Mr. BROWN of Wisconsin, he said to me that the last and practically the only word that was sent to him by his people was to defend the dignity and the power of the Federal Government to protect the President of the United States, and I know to-day——

Mr. BARNEY. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. JENKINS. I yield to my friend from Wisconsin.

Mr. BARNEY. Mr. Chairman, I am fully in sympathy with my colleague in his desire to make this measure as strong as possible for the protection of the President, but the Constitution provides that the executive power shall be vested in the President, and then defines his powers. Later it provides that the judicial power of the United States shall be vested in the Supreme Court and other inferior courts, etc. I am quoting only from memory.

Now, then, is there any difference, so far as the principle is concerned, in the officers of the court and in the President? While the duties of the office of President may be more multitudinous and more important, are they different in principle from those which are discharged by any other officers of the Government? I would like to have it clearly pointed out, so that I may see why the President is entitled to absolute protection at all times different from other United States officers, particularly the officers of the Federal courts.

Mr. JENKINS. Mr. Chairman, while it may compel me to digress a little from my argument, I will endeavor to answer the question of the gentleman from Wisconsin, because I think he is a thoughtful and reflective and careful gentleman, and he has asked this question from the very purest and best of motives. There is, as I have tried to point out since I commenced this argument, a vast difference under the Constitution of the United States between the President of the United States and a deputy marshal of the United States. The President, as I have just been reading, has large constitutional powers conferred upon him, and one of these minor officers is never mentioned in the Constitution of the United States. I can not quote with any more accuracy than can my friend from Wisconsin what the Constitution says with reference to the Supreme Court, but I know that it is general in language.

Mr. BARNEY. But while the officers of the court are not mentioned, yet when the court is established and when the Constitution provides that the judicial power shall be vested in the Supreme Court and other inferior courts, that necessarily implies the judges and marshals and other officers of the courts, so that they are really as much constitutional officers as the President or any other officer named.

Mr. JENKINS. Mr. Chairman, my friend from Wisconsin is legally right, as far as that is concerned, but there is a vast difference under the Constitution between those officers. The only reference that the Constitution has in respect to the Supreme Court is to the Supreme Court as a body, and not with reference to any individual, and I think before I get through this branch of it I will have satisfied my friend from Wisconsin and any other gentleman who has the same trend of thought, for there is no more thoughtful or reflective man on this floor than my friend from Wisconsin.

I invite attention again to the Constitution of the United States, because, as I have said, all powers that we exercise must be derived from that great instrument; and when we are asked to exercise a power the only question that confronts us is whether we can find that power in the Constitution of the United States.

Now, go back a little. We find first an express power conferred upon the Congress of the United States to raise and support armies. Now, the general provision to which I have invited attention confers upon Congress absolute power to make all laws necessary and proper to make that provision effective; and the great Chief Justice says, in order to determine that question ask yourself the question, Is the end legitimate? Is it within the scope of the Constitution? And if so, all means are appropriate.

Now, if we have power to raise and support armies, have we not power to protect them? There is not a word said in that great instrument with reference to the color of the clothes, the quality of the clothes, or what we shall feed the soldiers. Every one of those details has to be ascertained from the general clause to which I have invited attention. But the power exists to raise and support armies. The other general power is that Congress shall have all power necessary and proper to make that great power effective.

How can it be effective unless we can legislate so as to make it effective? The Constitution says that the President shall be the Commander in Chief of the Army and Navy of the United States. If we have power to feed the Army and Navy, if we have power to protect them, I want to ask why it is that we have not power to protect the head of that great army? We have power to provide and maintain a navy. We have power to make rules for the government and regulation of the land and naval forces. If we have power to make laws regulating the government of the Army and Navy, can we not include, under that definition of the great Chief Justice, the power to protect the President of the United States, who, by the Constitution, is the head and Commander in Chief of the Army and Navy of the United States?

And when we get down to those distinctive powers that the Constitution confers upon the President of the United States—and I will just take one or two, in order to save time—it will appeal to any gentleman on this great question that I am right. One of the first provisions of the Constitution is, as far as the powers of the President are concerned, that he shall be the Commander in Chief of the Army and Navy of the United States. Take the general power providing for the details of legislation, which says that the Congress of the United States shall have all power necessary and proper to carry into execution that great power.

Are you going to argue that you can provide as to the numerical strength of the Army, as to what they shall eat, as to what they shall drink, as to what they shall wear, and to who shall officer them, and then deny to the Congress of the United States the power to protect the life of the Commander in Chief of that great Army and Navy? And yet under the leadership of the Republican wing of my great committee they say that this Government has not the power to protect the life of the great Commander in Chief of the Army and the Navy of the United States unless he is killed under certain conditions mentioned in the bill, to which I will refer later.

Mr. BELLAMY. May I ask the gentleman a question?

Mr. JENKINS. Certainly.

Mr. BELLAMY. Do you take the position that if the President of the United States, who is Commander in Chief of the Army, leaves Washington on a hunting expedition and goes down to Currituck Sound, as Grover Cleveland did, and takes along with him a party of friends, and is assaulted on the duck-hunting expedition, that it is competent for Congress to give him greater protection while duck hunting than it is for Congress to give General Corbin, who goes along with him?

Mr. JENKINS. Well, I am very glad my friend from North Carolina has asked me that question, because it gives me an opportunity to express my views on that subject. I want it distinctly understood that whether it is Grover Cleveland, whom my friend from North Carolina dislikes, or whether it is William McKinley, whom my friend from North Carolina absolutely worships, if I read the Constitution of the United States rightly, and if my judgment is worth anything, the President of the United States can be protected by the Congress whether he is Grover Cleveland or whether he is William McKinley. [Applause.]

That is my position, and I do not want any mistake about it. I am insisting upon the full powers of the Congress and I am trying to relieve the position that my Republican friends have gotten into because they read too much of John C. Calhoun and too little of William McKinley. Now, as I was saying, when you go back—and I want particularly to answer the question of my colleague from Wisconsin [Mr. BARNEY], because that question is full of meat, as I appreciate. I say that the President of the United States has great constitutional powers conferred upon him, separate and distinct from the powers conferred upon Congress to raise and create and maintain the Army and the Navy.

When we look into the Constitution of the United States we find the great powers conferred. Finding them conferred, we resort to that other clause of the Constitution which says that Congress shall have the power to make all laws necessary and proper to make that power effective. How can it be made effective, I ask my friends, I ask the people of this country interested in this great question, how can you make it effective if people can at liberty shoot down the Commander in Chief of the Army of the United States and assassinate him at all times and under all circumstances? How can you make it effective?

In a little time your Army will be wiped out. If you can provide enough numerical strength for the Army, you certainly, without any great violation of the Constitution of the United States, can find power conferred to protect the life of the President.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANHAM. Mr. Chairman, I will yield further time to the gentleman from Wisconsin.

Mr. JENKINS. I will not abuse the concession of time.

Mr. LANHAM. I yield sufficient time to the gentleman from Wisconsin to conclude his remarks.

The CHAIRMAN. The gentleman from Wisconsin.

Mr. JENKINS. As I have been saying, the gentlemen on the floor of this House, whose views I oppose, rely upon opinions delivered by the Supreme Court of the United States. And I desire to refer to the fact that I have been emphasizing the position that the gentlemen opposed to me have absolutely ignored, the Constitution of the United States, the fountain of all of our power, and have insisted that they are relying upon certain decisions of the Supreme Court of the United States to sustain their contention that Congress has not the power to legislate generally, but must, if they legislate at all, introduce qualifications and limitations, which I am insisting are absolutely ineffective, and as I have publicly stated that no case can be found to sustain their contention that the question we are now considering has ever been before the courts or the country, that it is absolutely a question of first impression, and as they have ignored the Constitution and seem to rely upon the Federal cases, I will briefly refer to those cases for the purpose of demonstrating what I am insisting upon, that no case can be found having any relation to the question under consideration.

You can not cull out certain general expressions and use the same for the purposes of argument. In the 182 United States, on page 258, the Court, in speaking upon this question, said: "General expressions in an opinion must be taken in connection with the case in which they are used. Courts are not bound by any part of an opinion not needful to the ascertainment of the question between the parties." In other words, if there are any general expressions in an opinion not necessarily involved in the determination of the cause, the same can not be considered as authority.

Now, take the principal cases referred to. One of the cases strongly relied upon by the gentleman from New York is that of the United States *v.* Cruikshank et al (92 U. S., 542). The defendants in that action were indicted for conspiracy under the sixth section of the act of May 30, 1870, known as the enforcement act (16 Stat. L., 140). There were 32 counts in the indictment. In short, the law under which the indictments were drawn was to prevent two or more persons banding or conspiring together or to go in disguise upon the public highway or upon the premises of another with any intent to violate any provisions of the act referred to, or within the language of the act, to injure, oppress, threaten, or intimidate any citizen with attempt to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States or because of his having exercised the same.

The action was tried in the circuit court of the United States for the district of Louisiana, and the question came into the Supreme Court upon a certificate of division of opinion of the judges of the court below. The Supreme Court held, in effect, that the law referred to was unconstitutional, and the defendants were discharged. I can see that the reasoning to sustain the judgment of the court was very general. In fact, considerably beyond what was necessary to sustain the judgment of the court. The oft-repeated doctrine was again presented that the people of the United States resident within any State are subject to two governments.

Nothing new was decided by the court, for there is not a lawyer in the United States to-day but what will concede that the case was rightly decided upon the facts involved. Any other decision would have been a disappointment not only to the legal profession, but to every lover of State and Federal Government in the Union. The most extreme Federalist does not deny, as I have been conceding, but what the Government of the United States is one of delegated powers alone, its authority defined and limited by the Constitution, derived entirely from the States, and all powers not granted to it by the Constitution of the United States are reserved to the States or the people, and that whatever power Congress possesses is derived from the Constitution, and if there is no power in that instrument for Congressional action, any legislation by Congress is null and void.

The case is not an authority for the question under discussion, and does not support the position of the majority of the committee. In other words, Congress passed a law to protect citizens of a State against violence offered by their cocitizens—a vast difference between such a case and asking Congress to pass a law under its constitutional power to protect the President of the United States.

Another case much relied upon and referred to by all the gentlemen who have preceeded me is in re Neagle (132 U. S., p. 1). The facts in this case are very familiar, and in my humble judgment the case is no authority whatever as far as the question under discussion is concerned. Briefly stating it, Mr. Justice Field, a member of the Supreme Court of the United States, was in California in the discharge of his official duties. A person by the name of Terry had considerable feeling toward Judge Field on account of having been beaten in some legal proceedings pending before Judge Field, and it being well understood that the life of Judge Field was endangered by Terry, the Attorney-General of the United States directed a deputy United States marshal to accompany Judge Field and protect his person from violence.

Terry made an assault upon Judge Field while in the dining room of a hotel in California, and Neagle, in defense of Judge Field and possibly himself, killed Terry. Neagle was arrested by the State authorities of California and made application to the Federal court for a writ of habeas corpus under section 753 of the Revised Statutes of the United States, the material part of the same being as follows:

> A writ of habeas corpus shall in no case extend to a prisoner in jail unless where he is in custody under or by color of the authority of the United States, or is committed for trial before some court thereof, or is in custody for an act done or committed in pursuance of a law of the United States.

The majority of the court held that Neagle was in custody for an act done in pursuance of a law of the United States. The court conceded that there was no express statute authorizing the appointment of a deputy marshal to attend a judge of the Supreme Court when traveling in his circuit to protect him against assaults; but the court protected himself in its judgment behind the position of a general obligation imposed upon the President of the United States by the Constitution to see that the laws be faithfully executed. Mr. Justice Lamar and Chief Justice Fuller very vigorously dissented.

The opinion of the court held that Neagle was justified in defending Justice Field in the manner he did; that in so doing he acted in discharge of his duty as an officer of the United States, and therefore could not be guilty of murder under the laws of California, nor held to answer to the courts of California for an act for which he had the authority of the laws of the United States. The dissenting opinion held that Neagle was not performing an act in pursuance of a law of the United States; that the Attorney-General, who directed him to accompany him, was not the President of the United States; that to discharge Neagle on a writ of habeas corpus issued out of the Federal court prevented any further inquiry in any court, State or Federal; that there should be a trial of the case in order to determine the guilt or innocence of Neagle. In short, the court held that the section of the Revised Statutes under which Neagle sued out the writ did not extend to a case of this kind.

There is not a line or a word in the case that can be construed as an authority for or against the proposition now pending. It will be noted that no power of Congress was involved, no constitutional question raised, The statute referred to limited the

power of the Federal court to issue writs of habeas corpus and the court was called upon to construe the statute and say whether or not upon the facts stated the Federal court could issue the writ. This was a very important case, and as conceded by everything that has followed it, should have been tried in the State courts, and if the supreme court of the State of California was against the defendant, the case could reach the Supreme Court of the United States on a writ of error, when that court would have before it the evidence to determine as to the guilt or innocence of the accused.

It will be unnecessary to examine any further cases. I simply say to any gentleman here or elsewhere interested in this question that up to this time they will never find a decided case upholding the doctrine that Congress has not the power to protect the President of the United States at all times and under all circumstances. For my purposes I do not care whether the President of the United States forgets his duty or not. The Federal Government simply lays a restraining hand upon the person who would strike a blow at the Government by striking down the Chief Executive of the nation.

I have said there are many unconstitutional provisions in the House bill. I believe it. Limited time will prevent my discussing it. I simply content myself by trying to point out that this case presents a very important question of government. I am standing up for the powers of Congress, and am satisfied no successful argument can be made against it. I will not discuss with any gentleman as to whether or not it is necessary to enforce our power. I think when the people demand it we should act. I do not want to have it understood that I stand alone as far as outside views are concerned. I desire to have read in my time an article from the Boston Evening Transcript. This article appeared promptly the day after the report of the committee was made public. The writer of the article thoroughly understood the subject, and the article can be read with profit.

[Boston Transcript, Monday, February 17, 1902.]

AN AMBIGUOUS BILL.

The bill which has been reported to the National House of Representatives from the Committee on the Judiciary relative to "the protection of the President of the United States and the suppression of crime against government" is a measure which is lame in construction and which may, should it become law, prove difficult of enforcement. It provides that "any person who unlawfully, purposely, and knowingly kills the President of the United States while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death."

Similar safeguards, under similar qualifications, are thrown about the persons of those in the Presidential succession and about ambassadors. The qualification expressed in the phrase, "while he is engaged in his official duties," etc., will appear to many persons unfortunate, or unnecessary at least, since there is no time while the President is in office that he really loses his official character. If he is not engaged in the discharge of his official duties at one moment, he may be at the next.

An official whose functions include or may include the command of the Army and Navy, the execution of the laws, the initiation or supervision of our foreign relations, has little time save when he is asleep when he is not "engaged in his official duties." Under this construction of the bill it might prove as a law effective, but how can we be sure that such construction would always obtain by common consent. The ingenuity of the trained criminal lawyer never sleeps. It would be quite adequate to raising the point that if a President were assassinated in the interval of official duties, say, while on a vacation or on a pleasure trip, that the Federal law did not apply and the trial should be remanded to local courts, under laws that provide but imprisonment as the penalty for murder.

The definition of the interruption or cessation of official duties would be a nice point of which shrewd attorneys would make the most. Thus it could not be questioned that Lincoln was slain because of his official acts as President and Commander in Chief. He was killed by one who sympathized with the Confederacy, and who frantically hated him as the successful champion of the Union. Whether Garfield, when shot down in a railroad depot while about to start for Williams College commencement, was engaged in his official duties is fairly a question within the meaning of this bill.

The committee seems to realize this doubt, for in the report accompanying this bill it is maintained that Garfield was assassinated because he, "as President, had refused to grant certain requests, and possibly because the assassin desired the exercise of the Executive functions to be in other hands which he thought would the more readily serve his interests." The committee adds: "Lincoln and Garfield were murdered because of official acts or omissions, McKinley because he represented organized government."

This is true; but it can not be seriously contended that Lincoln, sitting in a theater watching a play, Garfield standing in a railroad waiting room, McKinley at a public reception, were engaged in the discharge of their official duties at the very instant when they were struck down. It is this failure to specifically throw the protection proposed by the bill around the President at all times that makes the bill defective. It breathes a spirit of compromise between Federal and State jurisdiction in this respect which is expressed in the committee's reference to the Vice-President:

"The Vice-President can not act until Congress meets. His constitutional duty is to preside over the Senate." But we may ask, Would the killing of the Vice-President, by its interruption of the established succession, be any less a blow at organized government because the crime was committed when he had waived the exercise of his constitutional duties, a president pro tempore presiding over the deliberations of the Senate? We know that Vice-Presidents have from time to time waived this duty, but they were none the less Vice-Presidents. Convenience counts for a great deal in all legislative bodies.

A considerable portion of the time of the House is passed with some one else than Speaker HENDERSON in the chair, but none the less Speaker HENDERSON remains Speaker HENDERSON during his absence from the Chamber of the Capitol.

The bill is already criticised in Washington as exhibiting the tendency of distinguished lawyers to "keep on refining" when the task referred to them calls for a very short and simple measure.

I have no private opinion in regard to this matter. I am simply discharging my duty as a member of the committee to present my view, and whatever the House may see fit to do will be entirely satisfactory to me. But I do not want the power of this Government impaired without my most earnest protest.

I want to invite further attention to what Chief Justice Marshall said in reference to this very important question. I am not arguing here to-day that my friends ought to go with me in violation of the Constitution of the United States to invade the powers of the States.

I want to repeat again, as I have additional time, that there is no man who stands on the floor of this House that is more prepared to-day to defend the absolute power of the States than I am. I believe to-day that every police power in the nation ought to be exercised through the States rather than through the Federal Government, but at the same time I must say, within constitutional limitations, that I am wedded, strongly wedded, to the powers of the Federal Government.

While I admire, love, and respect the States, I want to say to-day that we would be absolutely insignificant unless we had a great Federal Government that we could all look to in times of danger; and while I propose to stand by that Federal Government on all occasions within just and constitutional limitations, I do not propose to invade the powers of the States under any circumstances or any time. As I have said, I am simply standing here to-day because I want in this bill to express the full powers of the Federal Government. I think it would be absolutely humiliating to a great Federal Government here to-day to say that we had no power to pass a bill in accordance with my views, and that in order to pass it we have got to introduce a large number of qualifications and limitations which render the bill absolutely valueless in my judgment.

Now, what did the great Chief Justice say further in support of my views:

It may with great reason be contended that a government intrusted with such ample powers, on the due execution of which the happiness and the prosperity of the nation so vitally depends, must be intrusted with ample means for their execution.

Again, in the case of The United States against Fox, in 95 United States, 670, the Supreme Court of the United States said:

There is no doubt of the competency of Congress to provide, by suitable penalties, for the enforcement of all legislation necessary and proper for the execution of the power with which it is intrusted.

And I say to the people of this country who are interested in this great nation, it certainly ought to be conceded by every person interested in the welfare of the Government that whenever an express power is created or vested by the Constitution Congress has ample power to make the express power enumerated effective and operative.

The Supreme Court of the United States has aptly spoken on this subject:

The founders of the Constitution could never have intended to leave to the possibly varying decisions of the State courts what the laws of the Government it established are, what rights they confer, and what protection shall be extended to those who execute them.

It is argued that the preservation of peace and good order in society is not within the powers confided to the Government of the United States, but belongs exclusively to the States. Here again we are met with the theory that the Government of the United States does not rest upon the soil and territory of the country. We think that this theory is founded on an entire misconception of the nature and powers of that Government. We hold it to be an incontrovertible principle that the Government of the United States may, by means of physical force, exercised through its official agents, execute on every foot of American soil the powers and functions that belong to it. This necessarily involves the power to command obedience to its laws, and hence the power to keep the peace to that extent.

This power to enforce its laws and to execute its functions in all places does not derogate from the power of the State to execute its laws at the same time and in the same places. The one does not exclude the other, except where both can not be executed at the same time. In that case the words of the Constitution itself show which is to yield. * * *

If we indulge in such impracticable views as these, and keep on refining and re-refining, we shall drive the National Government out of the United States, and relegate it to the District of Columbia, or perhaps to some foreign soil. We shall bring it back to a condition of greater helplessness than that of the old Confederation.

The argument is based on a strained and impracticable view of the nature and powers of the National Government. It must execute its powers, or it is no government. It must execute them on the land as well as on the sea, on things as well as on persons, and to do this it must necessarily have power to command obedience, preserve order, and keep the peace; and no person or power in this land has the right to resist or question its authority so long as it keeps within the bounds of its jurisdiction.

(See Tennessee *v.* Davis, 100 U. S. Reports, 25; ex parte Siebold, 100 U. S. Reports, 371.)

Now, then, let me call attention to one or two more illustrations that I think are very pertinent. The Congress of the United States has power under the Constitution to establish uniform rules on the subject of bankruptcy. Now, every gentleman upon the floor of this House, every single lawyer in this nation, knows that under that great power Congress has the power to pass punitory legislation. It has frequently, and during my connection with this House, exercised that power. There is no detail of legislation in the Constitution, but, as I say, no one has ever questioned that great power.

Now, if we have got power to punish a man because he violates the bankrupt law of the United States, have we not got power to punish a man absolutely and without qualification that kills the President of the United States? Congress has also the power under the Constitution to establish post-roads and post-offices. Under this power, coupled with the power to which I have invited your attention, Congress has the power to pass all laws necessary to make that power effective; they rent buildings, make roads, carry the mail, and punish any man that violates the postal laws of the United States. And yet my friend from New York and his Republican colleagues, excepting myself, deny to Congress the power to punish a man who will, under absolutely indefensible circumstances, kill the President of the United States.

Now, Mr. Chairman, passing from the power of the Government to the bill itself, I want to invite particular attention to it. It is important that we do it. Congress is asked to create a statutory offense. If this bill is written into the statutes it will be highly penal. Every gentleman connected with the law on the floor of this House will confirm this statement. It will be liable to strict construction, and it can not be extended by construction. Every gentleman who has ever practiced law knows that one of the English statutes provided that whoever killed sheep or other cattle should be punished in conformity to the provisions of the statute. When a man killed a cow it was held that he was not liable, simply because it was not a sheep. That shows how strict they construe penal provisions.

Now, the bill under consideration proposes to make it a crime to kill the President of the United States under certain circumstances, not generally and under all circumstances, but within certain limits. Hence it appears from the language of the bill that the President may be killed and yet it would not be a crime within the pending bill. They say before you can make it a criminal act you must find that the President was killed when in the discharge of an official duty, or because of his official character, or because of his official acts or official omission.

I want to say to the country upon this occasion that my friends have very ingeniously pointed out to any man who wants to kill the President of the United States that he can kill him and not be liable under this law. I want to say to every gentleman interested in this question, as I have persistently urged whenever I had an opportunity to do it, that a man can kill the President of the United States and absolutely be immune under this provision. I can not conceive of any provision more favorable to a criminal than the one they are trying to write into the statute books upon this occasion.

Now, look at it for a moment. The bill provides that a man can only be punished under this act when he kills the President while in the discharge of his duty. We have had three Presidents killed since we have been on earth, and not a single one of them killed in the discharge of a public duty. Now, I want to call the attention of this House to the fact that they are trying to divide by legislation this great power. Here is a provision that the duties of the President are divided into two classes—official and non-official. In one case it is a crime to kill the President and in another it is not.

Now, when you say by legislation if you kill the President when he is engaged in official duties, that implies that there is a time and circumstances when he is not engaged in the discharge of his official duty, and the report in this case and the argument of my friend from New York yesterday was that if there is one moment of time when the President of the United States is not in the discharge of his official duty no man can be punished under the power of Congress.

Within a short space of forty years, within the time of every gentleman on the floor of this House, we have had three Presidents assassinated in this country; and I do not blame the people of this country for rising, without reference to their politics or religion, and demanding that the Federal Government pass some legislation with reference to this great question. But not one of them, Mr. Chairman, was killed in the discharge of his official duty.

I want to combat most strenuously, at the expense of the charge of repetition, by saying that it is absolutely impossible for a man to be in the discharge of his duties all the time. Was President Garfield in the discharge of his duty from the moment he was shot until his death? Every man knows that he was not. Was Lincoln in the discharge of his duty at the time he was shot? Not for a moment. Was McKinley in the discharge of his duties from the time he was shot until his death? Not for a moment. And yet, under the proposed bill, if any man had stepped in there and shot again President Lincoln and he had died as the result of that second shot, the man could not be punished under this bill.

Following that out, if any man had shot Garfield at any time after he was first shot, and he had died as the result of that second shot, you could not punish him under this bill. Following that out, as far as McKinley was concerned, if any man had shot McKinley after that fatal shot at Buffalo and before he died, and as the result of that shot he died, no man could be punished under this bill. For they say that if there is a moment of time that the President of the United States is not engaged in the discharge of his official duties no man can be punished for shooting him. All on the theory that Congress has no power to punish generally and under the limitation in the bill.

Mr. PERKINS. Will the gentleman yield for a question?

Mr. JENKINS. Certainly.

Mr. PERKINS. The gentleman said just now that if anyone had shot President Lincoln after the first shot he could not be said to be then in the performance of his official duties. Does the gentleman hold that President Lincoln was in the performance of his official duties when he was shot?

Mr. JENKINS. Oh, no.

Mr. PERKINS. Certainly not.

Mr. JENKINS. I am coming to that, I will say to my friend. I am insisting, and I thank the gentleman for asking me that question, for it assists me in my argument, that there are times—I do not care how multitudinous the duties may be that are forced upon an officer by the Constitution—there are times when he can not be in the discharge of his duties. I was illustrating that to demonstrate that he stood on the same plane as though he was asleep, and I want to protect the President of the United States when he is asleep or when he is awake, whether he is playing polo or whether he is writing his message, because I insist that this great Government has the power to do it and that we ought to do it.

That is my insistence, and I do not think we are begging the question or invading the power of the States when we start off in support of that position. Why, no; the lamented Garfield never was in the discharge of his duties for a single moment after he was shot, nor was any one of the others whom I have mentioned. Now, let us take up the question and let us look at it a minute. Since I have been here in Congress I had the pleasure of going down into Virginia, the burial place and home of the great George Washington, to listen to an address by the late President McKinley at the tomb of Washington.

Is there any gentleman here to-day who dares to support the position that the late President McKinley went down there in an official capacity? Not at all. Why, I am told here that in the social life in Washington there are a great many of us who are invited out because we are Congressmen, and that if we were not Congressmen we would not be invited out at all. Now, I do not want any gentleman to arrogate to himself the belief that he is invited out only because of his official capacity. He is invited out because he is a Congressman just exactly as our President of to-day was invited down to Charleston.

If he had not been President, he would not have been invited there. He did not go down there in an official capacity. It is true, I say to my friend here, that he went down there because he is President of the United States. He went down there simply because he was President of the United States, and no doubt he did honor to the occasion, as he always does upon any occasion and at all times. But, at the same time, I say that if he had been shot down there, the man that shot him could not have been prosecuted under this act if it had been in force at that time.

Now, I am not here urging that we pass this law because the States are going to be recreant to their duties. I am one of those men here who have as much confidence in the people of Texas or the people of Alabama as I have in the people of my own State. I do not question their loyalty to the Union; I never have and I never will as long as I see such evidences of loyalty all along the line. [Applause.]

I have the idea that if this last murder had been committed down in Texas, where my Christian friend who spoke so eloquently here yesterday lives, they would have strung that fellow up to a telegraph pole, and he never would have been tried. They would have vied with each other to have vindicated the law, and I do not mean any insult or disrespect to the people of the South because I say that, but I know that they love this nation so strongly that there is no question about their loyalty.

I am not advocating this measure because I doubt the loyalty of any State in the Union, whether it is my own beloved State or some State of the South, but I am here insisting to-day that we ought to pass some law expressive of the power of government, because the people have demanded it and Congress has the power to act and therefore it should not refuse to put that power into operation simply because there is some danger of an invasion of State rights, or some intervention of that kind.

No, Mr. Chairman, I would not libel the people of the South. We are not asking this because we expect our President to go South by and by and we want him to be protected; we know that when he enters any State in this Union every man there, without reference to politics or his political sympathies, will stand up like

a man and protect the President, but we want to put in operation a power of national government that the people of this Government have demanded of us that we should put in operation.

Mr. LANHAM. Will the gentleman permit a question just at this point?

Mr. JENKINS. Certainly.

Mr. LANHAM. Suppose the Federal Congress had authority to take cognizance of an offense of this sort committed within a State, would not the person committing the crime have to be tried in the district where the offense was committed, and would not the jury have to be selected from the same body of citizenship as they would be chosen from in the event of a State trial?

Mr. JENKINS. I should answer my friend from Texas in the affirmative. His legal conclusions, according to my view, are absolutely correct. There is no question about them, not at all. We do not doubt (and that confirms what I have been arguing and advocating) the people or the power of any particular State——

Mr. LANHAM. Then what is the necessity for enacting any statute at all?

Mr. JENKINS. The necessity, I will say to my friend, in answer to his question, is this: We ought to have uniform legislation. The necessity is simply because the people of this Government have demanded it by thousands, and thousands of names have come to us on petition asking that Congress legislate, because their attention was sharply called to it when the late President McKinley was killed.

There was a great question as to who should exercise the power of punishment and as to what the punishment should be, but as was well said yesterday by the gentleman from New York [Mr. RAY], there are States in this Union where punishment is not extreme. Had that unfortunate murder been committed in the State that I have the honor in part to represent, the murderer would only have been punished by imprisonment in the State prison for life. In other States he would have been sentenced to death. We want uniform punishment; but I am contending to-day that the power is ample, and as long as the people of this country are demanding that we should exercise the power, I think that the Congress of the United States would be cowardly in refusing to legislate with reference to a power conferred by the Constitution, and I do not care if more than a hundred years have elapsed and we have not exercised that power.

There must be a beginning, and to-day, after the people have suffered a loss of three Presidents—and their loss has been universally mourned all over the country—they are demanding that we should legislate with reference to it. We would be recreant to our duty if we did not legislate. And I want to say, in order that my position may not be misunderstood, that I do not care how objectionable the bill under consideration may be, I am going as far as I can. All I regret is that the majority of this committee have not gone as far as I think they ought to go with reference to the power of Congress, and I regret exceedingly that they have gone off to protect others to whom the Constitution does not afford any protection.

I think I have very fully covered my objections to the bill; but I want to confirm my opening, that under this bill it is going to be absolutely impossible to convict any person. Why? Because it says here the Government is so absolutely weak that you can not punish a man unless he murders the President within three limitations. First, the President must be engaged in his official duty. As I said, none of the three Presidents who were murdered was engaged in an official duty when he was murdered. Second, that he must be punished because he killed the President on account of his official character.

Why, you can not separate the character. We are Congressmen from the day we are elected until we go out of office by death, resignation, or limitation. You can not separate the official from the nonofficial. Or, they say, you must kill him because of some official act or official omission. I am told that my friend the gentleman from Ohio [Mr. NEVIN], who is doing me the honor to listen to me now, is one of the ablest debaters that ever discussed a question of this kind. He is going to follow me. I know he is a man of ability, and I want to address my questions to him.

Suppose he was the judge of a court. He would say, "Gentlemen of the jury, before you can convict this man of killing the President of the United States under this law you must find one of three conditions. You may find them all, but if you find one it will be sufficient. You must find that this defendant killed the President at a time when he was engaged in the performance of an official duty; or, if you do not find that, you must find that he killed him because of his official character. Or, if you do not find that, you must find that he killed him because of the fact that he officially failed to do something or officially did something obnoxious to the defendant. If you do not find that, you must acquit him." Now, that is pointing out to a man that under the Federal law he can go and kill the President of the United States and be absolutely immune under any law that Congress passes, if this bill becomes a law.

Mr, KLEBERG. Will the gentleman permit me?

Mr. JENKINS. Certainly.

Mr. KLEBERG. And is it not true that if he were acquitted in the Federal court the State court could not try him on account of having been once in jeopardy?

Mr. JENKINS. Certainly; the State court could not try him. I agree with my friend from Texas fully. I say you are pointing out to a man how he can kill the President and not be punished for it. When the late President McKinley went down and delivered the great address over the tomb of Washington, did the President go there in his official capacity? Why, not at all. It is true he went down there because he was President of the United States. If he had not been President of the United States, he would not have been invited. But he was not in the discharge of an official duty.

Now, supposing some person had taken offense there because the President of the United States felt like eulogizing Masonry. Washington was a Mason, and I understand that the late President McKinley was a Mason. Naturally he would eulogize Masonry.

Supposing some person had taken offense at that utterance and had pulled out a gun and shot him. Under this act you could not punish him, for he did not shoot him when he was engaged in any official duty. He did not shoot him because of his official act or official omission, and he did not shoot him because of his official character, but he shot him because he was standing there in defense of Masonry.

Suppose, further, that the shot was fired when the President was not in the discharge of a public duty, and there is nothing to indicate the motive or purpose of the shooting.

He escapes under this law. Now, my insistence, as I am appealing to my Republican friends, is that we can protect the President of the United States in general terms under the great constitutional powers. That is what I am insisting upon. I do not care under what circumstances the shot is fired. How are you going to prove it when the murderer is silent? The President goes out riding; he goes out to New York to deliver an address; he goes out to Detroit, Mich., to speak on some great question. Some person takes offense at him and shoots him. He does not open his mouth. He sits there at the trial with his mouth closed. How are you going to prove under what circumstances he shot him?

I am inviting the attention of those gentlemen who are forcing this bill upon the country as to how you are going to convict. I am calling attention to it, because I say you are weakening the bill, you are weakening the law, when you throw this doubtful provision into it. Why, all that a man has got to do when he has shot the President is to keep his mouth shut. How are you going to force him to state under what circumstences he did it? You may call on him to state whether he did it while he was in discharge of his duty, and he will say "No." Then you may ask him whether he did it on account of his official character, and he says "No." You may call on him to state whether it was on account of any official act or omission; he says "No."

But my learned friend from New York says that we have introduced section 13 in this law, by which we are going to change the law of civilization, the law of nations from time immemorial down to to-day; we are going to change the law in order to carry out our purpose, and we are going to say to any man that we will make a presumption of fact a presumption of law, and I can not tell from reading the efforts of yesterday as to what that presumption shall be; but they are so much afraid of their position that they say that we declare as a matter of law that the President shall be presumed to be at all times in the discharge of his duties, and therefore if a man kills the President of the United States it devolves upon him to prove that he was not in the discharge of his official duties.

Why, the gentleman from Indiana [Mr. CRUMPACKER] ventilated that question yesterday when he asked the gentleman from New York with reference to it. It was an absolute disposition of the question and makes it unnecessary for me to discuss it. It answers it, and there is no possible chance for argument with reference to it.

A man steps up and shoots the President of the United States. He does not make any declaration as to how or under what circumstances he shoots him. To get rid of that question of fact we are asked to say that it shall be made a matter of law that if any man shoots the President of the United States it shall be presumed that he was in the discharge of his duties. Why, look at it. It is absolute nonsense, if I may say so and speak respectfully of this great question.

Take the illustration of it that I have given, when the late President McKinley went to the tomb of Washington and delivered a Masonic address. Suppose he was shot then? They say we will establish it as a rule of law, according to the language of

the gentleman from New York, that he was in the discharge of his duty, and the defendant must prove he was not.

Now, I insist that such things are absolutely unnecessary. I insist that if the President of the United States is killed the man that kills him should be punished. Why, because, Mr. Chairman, I am insisting that when a man shoots the President of the United States, in contradistinction of the argument of my very learned friend from Texas, he is really striking a blow at the Government, not striking a blow at the individual. We are not seeking here to-day to protect the individual, but we are seeking here to protect the instrument, the representative of government.

That is what we are doing. We are not trying to say that if a man holds a high office in the Government he shall be protected as against the humblest individual of the United States or the nation or the State. We are simply to-day exercising the power possessed by the Federal Government—a power that was never exercised. That is what we are attempting to do. We are not seeking to do anything, but in obedience to the demand and the great call of the people of this nation we are seeking to put into operation the power of the Government to aid in the protection of the President of the United States. The people are demanding it. It is not as federalists we are demanding this legislation.

It is not as though the extreme and radical were demanding this legislation. We are simply acting in obedience to the great demand of the people who say there ought to be a national law. It is not confined to the North, but it comes from the South; it comes from the West, and it comes from the East. They are all demanding that this great power that has been dormant for over one hundred years be put into action. That is all they are demanding. We are not violating any principle of the Constitution, we are not invading the power of the State. There is not a single man that wants to invade it.

Now, I am in honor bound to hurry along, but I want to call attention to the difference between the Senate bill and the House bill. Mr. Chairman, my learned friend, the chairman of the Judiciary Committee, has insisted that the Senate bill is unconstitutional. To a certain extent I agree with him, but I insist that the Senate bill is infinitely preferable to the House bill.

The difference between us and the Senate is that the Senate absolutely agrees to my position. The Senate says, without division, without debate, without a question, with those great Democratic members sitting there in the Senate, that there is no question but that the Congress of the United States has the absolute power to protect the President of the United States, asleep or awake, whether he is engaged in official duty or nonofficial duty. It makes no difference when he is killed. They say it is punishable per se, and I say so.

I say so, Mr. Chairman, because the man that kills the President of the United States does not merely kill an individual; he does not kill a man, he kills the representative of the executive branch of this Government. He strikes a blow at government. That is what we are aiming to protect. We are aiming to protect the Government of the United States, and not the individual who fills the position. It may mean lots to this great Government to have a President of the United States killed. We may have no Vice-President, and it may mean a great change, it may make a great difference, and we want to warn all men that they must not kill the President of the United States, whether he insults them or not.

I will not indulge, as far as I am concerned, in any such reflection. I know, as I have said in answer to the gentleman from New York, that we have never had a man, and I know that we never will have a man elevated to that high position, who will so far forget himself as to insult any man and provoke him to murder; and if he does, let the responsibility rest upon the murderer instead of upon the nation.

I insist that a man must keep his hands off. He may want to kill the President, but I do not care what you suggest may be the reason or motive, I am insisting to-day that the man that kills the President of the United States strikes a blow at the Government and the individual liberty of every citizen of the United States. It is not killing simply a man. If it was, we would not be exercising or attempting to exercise the power to-day. I would not insult any State in this Union by asking that the Federal power be invoked, because I think that any State would discharge its duty. I know no State would be recreant to its duty on an occasion of this kind.

I am asking you why anyone should find fault because the Congress of the United States proposes to put into execution one of the great powers confided to it by the Constitution of the United States. We do not want to impair the power of a State; we do not want to invade, and we never will by my action invade the power of a State. I know that no lover of this Government will ever insist on any such proposition.

I want to refer to two or three provisions of the bill, and I tell you it will take some good lawyer to explain it. Out in our country when they get confused in reference to a legal proposition they say it will take a Philadelphia lawyer to explain. What that means I do not know. I never had it explained to me. But I tell you it will take more than one lawyer to explain to me some of the provisions in this bill.

Now, I have not the time to go through it seriatim, but I wish I had. I have tried to point out in my feeble way and with my limited time that while I agree with my colleague that the power they seek to invoke is constitutional, they do not go far enough. They have yielded to democratic influence; they have denied the just and full powers of this Government. I have given my views in the bill which has been read from the Clerk's desk, because I think that goes as far as the Federal power can go.

We can not protect a man who seeks to come in to occupy that high place in case there is a vacancy. There is no need of passing any law with reference to the Vice-President of the United States. He is amply protected, because the only duty he performs is right here under the Dome of this Capitol. Therefore there is no necessity for any legislation as far as he is concerned. And when we go out of our way to protect the ambassadors, there is no difference between the House bill and the Senate bill.

As I have said, I think the Senate bill is infinitely preferable to the House bill, because it recognizes the just and full power of Congress in this great regard. It goes further than I wish it did, because it seeks to protect foreign potentates abroad. We have nothing to do with them, and I agree with the learned chairman of my committee when he says that that provision of the bill is absolutely unconstitutional, but there is one thing in this bill that I do not understand, and I want some gentleman who follows me to explain that provision.

If you will read that bill you will see that the House bill provides, first, that if a person should kill the President of the United States when he is in the discharge of his duty, or on account of his official capacity, or on account of his official omission or official act, he shall be punished with death; but, referring to section 5 of the bill, if a man should assault the President of the United States and get into a rough-and-tumble with him and in the event of that struggle the President should die, he can only be punished by life imprisonment.

In other words, there are two contradictory provisions in this bill. First, if you kill the President of the United States, you shall suffer death; second, if the President die from some assault that you make upon him, then you shall only go to State prison for life. I want to invite your attention to it because of the contradictory provisions of that bill. I can not understand it. I could not understand it when the provisions were considered, nor can I understand it now.

I am standing here and saying that I think that such provisions are absolutely unnecessary. My insistence is, first, as I have presented this bill to this House, that a man who kills the President or makes any assault upon the President of the United States with an intent to take his life should suffer the extreme penalty of the law, not because he has attacked an individual, but because he has attacked the sovereignty of this Government. That is what I am insisting upon, and I think it is pretty near time that we settled this great question of State rights and the power of this Federal Government.

I am willing this great Government on this question should go to the people of the several States, whether it is North or South, I do not care where they come from. As I have said, I know that the people of the South are going to insist that their representatives should stand up in favor of the power of the Government. The wisdom of the execution of the power may be another proposition. I am simply standing here in defense of the power of this Government, and I do not want it belittled.

I am insisting that the Constitution says that we have ample power to act, and I think that on account of the fact that in less than forty years we have had three Presidents of the United States assassinated in cold blood there is nothing wrong in correcting the powers of government. When we do this we are working no outrage on any State of this Union. I do not want it to go to the several nations of this globe that Congress has no power at all times to protect the President of the United States. I have no words of condemnation, no quarrel with my colleague who insists that it is not wisdom to enforce that power.

I am simply insisting, Mr. Chairman, that the time has come when we ought to exercise that power, and I am insisting here to-day that we have got the power and that we will be recreant to every duty unless we do exercise that power and write into the statute book that any man who kills or attempts to kill the President of the United States shall suffer death.

We say here to-day it is not the individual; if you make an attack upon the President of this country you are making an attack upon the people of the United States, North, South, East, and West, and we will rise up here in our dignity and defend the power of the nation. [Applause.]

Mr. RAY of New York. Mr. Chairman, I yield to the gentleman from Ohio [Mr. NEVIN] such time as he desires.

Mr. NEVIN. Mr. Chairman, when the shot fired at Buffalo had done its fatal work the people of the country, in their eager and earnest desire to suppress such occurrences for all time, seemed to forget everything except that something must be done, some law of some kind must be enacted. The Committee on the Judiciary had literally hundreds of names, scores of petitions, and dozens of bills of all kinds providing a punishment for what in general terms was called anarchy. There were bills offered which made the killing of the President of the United States punishable by death; not the unlawful killing, not purposely killing, not maliciously killing, but just to kill the President, no matter how or why, was to be punished by death.

Out of that multitude of bills the Committee on the Judiciary began to examine and to prepare what in its judgment would be a constitutional, conservative bill, worthy the dignity of the subject and the American Congress. All of the members of that committee upon our side save the gentleman who has just spoken [Mr. JENKINS] have submitted to the House the bill as it is presented to you to-day. All of these questions that have been argued here were presented there, and I may say that it did not require any great investigation for us to arrive at the conclusion that it was not only constitutional, but that the inherent power rested in this Government to pass a law punishing anyone who unlawfully killed not only the President, but any officer of the Government of the United States.

I differ from my friend from Wisconsin [Mr. JENKINS] on the proposition that the President of the United States stands in any other relation to this Government as an officer than does a deputy marshal. So far as the Government is concerned, the President is an officer, no more and no less, save that he has multitudinous duties to perform and of a higher and more dignified kind. He differs in degree, it is true, but he is an officer of this Government, elected as other men are elected and as some are appointed, with precisely the same right to be protected, and no other. As a citizen he has just the same right, as the gentleman from Texas [Mr. LANHAM] said the other day, that any other citizen has. We have been taught from earliest infancy that, so far as men are concerned, there is no difference in this country between those who hold office and those who do not, and I agree to the fullest extent with the remark made by my friend from Texas that, so far as the citizen is concerned, it is just as much a crime to kill one good man, though he be the humblest in the community, as to kill any other good man, though he be President of the United States.

Therefore, starting out with the proposition that we have the inherent power to protect our own Government, the same inherent power that all governments have, we have reached this conclusion. What is the Government? It is that which rules a people or a nation; and unless it can protect itself, it is nothing. It is less than a wisp of straw or a rope of sand. It must have the inherent right, regardless of any Constitution, written or unwritten, to protect itself, and therefore to protect its officers and its agencies. Therefore we had no differences in the committee in the opinion that we have the right to pass a law punishing anarchy, punishing the killing of a President or a Vice-President; and although I listened intently to my friend's reading of the Constitution, I failed to hear anything to-day, as I have failed from an examination of it heretofore, to find anything which would indicate in the least that the President differs in any way as an official from any other officer of this nation.

Now, what did we find when we began to examine the decisions? We found that from the very beginning of this Government there had been recognized the right of the State only and alone to punish the citizen; that in whatever jurisdiction you were, there the citizen, the man, the homo should be protected, and if assailed his assailant should be punished according to the law of that place. And why was it not right? Whatever is good enough and strong enough and righteous enough for the citizens of Texas ought to be good enough for the citizen of Ohio who goes down there, as I hope I may when my friend [Mr. LANHAM] is elected governor. Anything which will protect a citizen in Ohio ought to be good enough for any alien or any citizen of another State who goes there, ought it not, if the law is rightly and faithfully administered? And therefore it is that in all the decisions of all the cases it has been held over and over again that the punishment to the citizen must be in the forum or in the place of venue where the offense occurred.

Now, we intended to go beyond that, not to protect the President as a citizen, but to protect him as an officer of this Government. And then what did we find? Why, we found the opinions over and over, as Judge RAY said, at least a dozen times, expressed that this could only be done in reference to him in his official capacity. My friend from Wisconsin [Mr. JENKINS] says he can not differentiate, that he can not tell when a man ceases to be President and when he becomes a citizen. Well, I assume that is a question of fact, like any other question of fact. My friend says we have had three Presidents killed in the last few years and that not one of their murderers could have been punished under this law. There was not one of those assassins who could not have been punished under this law. There was not one of those Presidents who was not killed on account of his official character, whether he was in the performance of an official duty or not, whether by reason of the fact that he omitted to do something or had done something required of him or not.

It was on account of his official character that each one was slain. Take the last one. Why, gentlemen, say that you should answer as you would if you were a judge trying the case. Very well; take the last case. The assassin would have been brought forth for trial and, the Government having rested, he would have been put on his defense. There is no claim that he had ever spoken to President McKinley, that he had ever seen him, that any act of his as an individual had caused the assassination. He absolutely had no reason to kill him save on account of his official capacity—because he was the President of the United States—and under this bill, if it had been a law——

Mr. MCDERMOTT. Will the gentleman allow me to interrupt him?

Mr. NEVIN. Certainly.

Mr. MCDERMOTT. You have as to one case made it a presumption by law—killed him because of his official capacity. If he made no utterance at the time of the killing or thereafter, the jury could not find that he killed him because of his official capacity, because there could be no evidence, and the presumption would be that he did not kill him because of his official capacity, but that he killed him in the way that would best be in accordance with innocence. Then, in the thirteenth section, you provide for a presumption of law. Rightly speaking, the presumption would be the other way in the absence of affirmative evidence that he killed him because of his official capacity; that not being proved, he would be entitled to acquittal by the jury.

Mr. NEVIN. You are correct in the statement of the law, but I differ from you as to the statement of fact. Suppose the case goes to the jury. There are certain presumptions of law. Every man is presumed to be sane until the contrary is shown. Every man is presumed to intend the natural consequences of his act until the contrary is shown. If I take a pistol loaded with powder and ball and fire it into your body, I am presumed to intend to kill you if death results. Suppose for a minute that you and I shall be seen together late at night, and a pistol shot is heard, you are killed, and then I shall be found with the pistol in my hand, the presumption of law is that the person firing the shot intended to kill you, and the jury would find as a fact that I had done so. Does not the gentleman think that any jury would so find?

Mr. MCDERMOTT. No.

Mr. NEVIN. I rather think they would. I would hate to be put into that box. [Laughter.]

Mr. MCDERMOTT. The presumption of fact and the presumption of law are entirely foreign to my question. Where is there any legal principle for it being established, if the President of the United States has been assassinated? What legal principle would you invoke to justify the jury, in the absence of a statutory law of Congress, in presuming that the man killed the President of the United States because he was President?

Mr. NEVIN. I will answer that now by taking your own illustration. Suppose, only to illustrate, that I take the history of the assassination of Mr. McKinley. Let us take the facts and put them to the jury. Under this Federal law he is indicted in the Federal court, and he is brought before the jury, and the proof comes out that he had never spoken to the President, he had perhaps never seen him, so far as the proof would show—I am talking about the proof that goes to the jury——

Mr. MCDERMOTT. Carry it a step further. If there was no evidence that he had any knowledge that he was the President.

Mr. NEVIN. Ah! but that could not be, because you must assume that every sane man must know the President. The jury would certainly presume that he knew that Mr. McKinley was the President. The law presumes that every man knows what the law is. If you can presume him sane, you can presume he knew the President. Take the assassin, put him before the jury, with all the facts just as they existed in this case and nothing else, and is there any jury in the world that would not presume the fact—that is, the official character of the person killed—upon which it could return its verdict?

Mr. LITTLEFIELD. To find as to the fact?

Mr. NEVIN. Yes; I am using those as synonymous terms.

Mr. MCDERMOTT. I should imagine any civilized court would overturn the verdict of a jury which would find a fact upon which there was no evidence. Now, let me go a step further, right in that line, if I am not interrupting you too much?

Mr. NEVIN. Not at all.

Mr. McDERMOTT. Another question. You have in section 13 a presumption—

That in all prosecutions under the provisions of the first seven sections of this act it shall be presumed, until the contrary is proved, that the President of the United States or Vice-President of the United States or other officer of the United States entitled by law to succeed to the Presidency, as the case may be, was at the time of the commission of the alleged offense engaged in the performance of his official duties.

I take it that the draftsman has attempted to create a presumption of law. No presumption of law would stand in any case where a President has, up to date, been assassinated, for this reason——

Mr. LITTLEFIELD. The gentleman from New Jersey means a presumption of fact?

Mr. McDERMOTT. A presumption of law.

Mr. LITTLEFIELD. A presumption of law is not rebuttable, and this presumption is rebuttable by the language of the section.

Mr. McDERMOTT. Now, take, for instance, the assassination of President Lincoln; he was assassinated during a theatrical performance. President Garfield was assassinated when about to take the train for a pleasure trip. President McKinley was assassinated while addressing his fellow-citizens at a fair for the encouragement of Pan-American commerce. Now, that fact being shown to the jury, the case on review would stand this way: That it was shown that President Lincoln was not engaged in an official action, that President Garfield was not engaged in official action——

Mr. NEVIN. I can not agree to the gentleman's statement of fact.

Mr. McDERMOTT (continuing). That President McKinley was not engaged except so far as you load him with the Presidency; the individual was not engaged in Presidential duty; and it would necessarily appear on the part of the prosecution by the Federal Government that he was not engaged in the performance of an official duty. Therefore, having proven your case for the State, you necessarily have proven the negative which is here proposed, and you have overcome the presumption necessarily in the presentation of your case that he was engaged in any official duty, and your act shows and provides that that presumption shall exist only until the moment that the contrary is proven. It would be impossible—I do not say in future cases, but in cases that we can illustrate from assassinations that have taken place—impossible for the United States to have established its case without overcoming this presumption rendering the defendant at the bar entitled to the direction of acquittal; and if it was not given, the conviction would be reversed.

Mr. NEVIN. I can not agree with the statement of facts made by the gentleman from New Jersey. This presumption set out in article 13 to start with—take any one of his illustrations, I do not care which one—would start out with the presumption that he was at the time of the assassination engaged in the performance of some official duty.

Mr. McDERMOTT. But the proof would show that he was not.

Mr. NEVIN. No. You see there is where we differ. What would you or I say if we were trying a case as to what constituted official duty? For example, I say, and I believe that the President of the United States is as much within the performance of his official duty in the case I am about to illustrate as though he was absolutely writing his message to Congress.

The President is sitting down and writing a message to Congress. He is engaged in the performance of his official duty beyond question. He gets tired, and to brighten his intellect and rest his body he strolls to the window and stands there smoking his cigar and looking at the stars, and a man comes along and kills him. I say when killed he is as much in the performance of his official duty as though he was absolutely sitting with the pen in his hand writing his message. I say that President Lincoln, tired and worn out, overburdened with the mighty strain that had been put upon him, went to the theater as a recreation to enable him to perform his duties the next day, and when he was assassinated I say he was assassinated during the performance of a duty, and a jury would have a right to say and so find, and there would be no such thing, as the gentleman states, of evidence to rebut it.

Mr. RAY of New York. The courts have said in all cases, and the Supreme Court of the United States has decided in several cases that the officer is in the discharge of his official duty at any time when he is charged with the performance of that duty. This may be termed impliedly so engaged. Now, the President of the United States is Commander in Chief of the Army and Navy. The executive authority is vested in him, and it is his duty to execute the law at all times and to see that it is executed, and therefore there is no time when he is not engaged in the performance of an official duty—that is, in and about the performance of his official duties—unless he might be in some position where the court might find, in some extreme case, he had gone entirely outside and divorced himself from his duties, thrown off his duties; as, for instance, if he had resigned, or left the United States, or become insane, then he would not be engaged in the discharge of an official duty, of course not.

This illustration was brought up by a distinguished lawyer, who said: "Suppose the President should go to New York on business and stop at a private house over night where no one knew him or of his official character. While he is asleep a burglar breaks into his chamber, and the President resists the burglar, and the burglar, not knowing who he is or his official character, kills him. Now, certainly there is a case where the President is not actively engaged in the performance of his official duties, but still he is charged with the official duties, and therefore he is in and about the discharge of his official duties, and this law would protect him and protect the Government."

Mr. McDERMOTT. But that is not the wording of the act at all.

Mr. RAY of New York. And this man who kills him can not escape upon the theory that the President was not in the discharge of his official duties, and he can not escape because he did not know that he was killing the President, because a purpose to interfere with the Government of the United States is not essential to the criminality, and there is nothing in the bill that makes the intent a necessary ingredient of the crime.

Mr. McDERMOTT. Section 13 of the bill does not provide that a certain result shall follow from conditions that may be stated as these when he is President of the United States or when he is charged with an official duty. The distinctive words are these: "When in the performance of an official duty." The President of the United States is always, from the date of induction to the expiration of his term, charged with an official duty, and therefore I believe during that time that the assassin should be dealt with as provided by this bill. What I am afraid of is that you are providing a loophole of escape. The bill does not provide certain results shall follow during the time he is charged with the duties of President, but that the result shall follow if the assassination is while he is in the performance of his duties.

Mr. RAY of New York. The courts so hold that while he is charged with the performance of official duties he is in and about the performance of his duties. We have used the language of the Supreme Court—a good authority.

Mr. McDERMOTT. I did not propose, Mr. Chairman, to intrude upon the time of the gentleman who has the floor.

Mr. NEVIN. That is all right.

Mr. BOWIE. Mr. Chairman, I would like to ask a question of the gentleman from Ohio.

The CHAIRMAN. Does the gentleman yield?

Mr. NEVIN. Yes.

Mr. BOWIE. There has been very considerable suggestion throughout the United States that an anarchist who, because of his views, attempts to kill the President of the United States ought to be punished by death, just the same as if he had succeeded. For instance, if Mr. McKinley had gotten well, there was a considerable view throughout the United States that the man ought to be punished by death anyway and that that was a defect of the law. Now, I would like to have some explanation of it, why it is that the committee in its wisdom did not think that the anarchist who fired at McKinley was just as guilty and just as deserving of death if McKinley had gotten well as if he died. I think his guilt is just the same.

Mr. NEVIN. That matter was considered in committee, of course, and discussed there. I remember its being stated, and we found it to be so, that in no civilized country has an attempt to commit a crime ever been punished the same as the successful act. We do not know anywhere in any civilized country of Europe or on the globe where an attempt to do a thing is punished with the same degree of punishment as the completion of the act, nor ought it to be.

Mr. BOWIE. There was a very strong sentiment throughout the country to the contrary.

Mr. NEVIN. It is true that the intent is the gist of the crime. It is true that the act of a person who kills another may be absolutely harmless in that, there being no intent, he was not guilty of the offense. I do not believe it to be right to make the punishment for a mere attempt, even though it be a severe attempt, the same as though the crime had been completed.

Mr. BOWIE. Does the gentleman not think there is a difference between the ordinary case of murder for private malice and that of a man undertaking to destroy the Government, which an attack on the Chief Magistrate is? It seems to me there is quite a distinction.

Mr. NEVIN. Yes, so far as the result is concerned. So far as the intent is concerned, no. I would have much more sympathy for a poor, deluded, half-witted person or lunatic who has been led into committing a crime of that sort than I should have for a

cold-blooded assassin who killed another in order to wreak his vengeance or for gain.

Mr. BOWIE. But the public danger is not so great.

Mr. NEVIN. That is true; but I may say that in drawing this bill the Judiciary Committee attempted to make it severe and yet not so severe as to defeat the purposes we had in view.

Mr. LANHAM. May I interrupt the gentleman?

Mr. NEVIN. Certainly.

Mr. LANHAM. I want to draw attention to the suggestion made by the gentleman from New Jersey [Mr. MCDERMOTT] relating to this last section of the bill—section 13. In a criminal trial, as I understand, it is an elementary rule laid down, as old as the law books, that the guilt of the defendant must be fully established by the Government.

Mr. NEVIN. Beyond a reasonable doubt.

Mr. LANHAM. I fully agree with the proposition that a man is presumed to intend the legitimate consequences of his own act, and he is presumed to be sane, and if he sets up the plea of insanity, then the onus probandi is shifted from the State to the man to show that as an affirmative fact. But here you are presuming, not as to the defendant, but as to the person killed. Are you not reversing this elementary and fundamental principle of evidence and presuming against the innocence of the defendant?

Mr. NEVIN. No; you are not presuming against the innocence of the defendant; you are simply presuming that something is the fact as to the person who was killed. It may not affect the innocence or guilt of the defendant at all.

Mr. LANHAM. Then are you not shifting the burden of proof?

Mr. NEVIN. As to that, yes; certainly.

Mr. LANHAM. Do you think such a thing is sound in criminal jurisprudence?

Mr. NEVIN. There can not be any question of that fact; that is just what we are doing. What I was about to say is that we have tried to frame a bill which will be severe enough and far-reaching enough in its effect to make all these so-called anarchists—these assassins—understand that they must deal with the Government of the United States, that in Federal authority is vested the punishment of the crime, and that in just so far as all the resources of this Government can be put to that end they will be hunted down and extinguished. The moral force back of the law—the idea that the Government will hunt them down—we believe to be one of the great merits of this bill.

Perhaps every one of you has read more or less of the history of the assassins, how the term assassin originated, and how the band took its origin. It is said that along about the eleventh century there were three persons, students of an illustrious teacher at Nishapur, called Mowafek. These three students were Omar Khayyain, Hassan Sabah, and Nizain ul Mulk, afterwards vizier to the Sultan Alp Arslan; that they agreed with each other that if either one of them should rise to great eminence he should take care of the other two. One of them became vizier of the Sultan, next in power over the country to the ruler himself. Then Omar and his fellow-student, Ben Hassan, made their claim upon him for recognition. To Omar, who turned out to be a great astronomer and a Persian poet, he gave an annuity.

This one of the trio settled down to reading the stars and writing poetry, one of his productions being the Rubaiyat, which has been translated into English and will live forever. But Ben Hassan sought a place in the Government, and as soon as he was placed in power by his friend and fellow-student began to form intrigues to suppress his benefactor. In this effort he would have succeeded had not his scheme been discovered; and then he was driven away. He went out and became "The old man of the mountains."

From his name Hassan has come the word "assassin"—a word recognized among all the people of Europe. With Hassan originated this organization. The old man went out into his mountain fastnesses, from which, instead of sending armed bands against his enemies, he would choose one of his followers to go against his enemy and kill him with dagger or knife, for there were no pistols or guns in those days.

Thus that little band grew until it became the terror of all that eastern country. Finally, however, it was hunted down by just such an effort in those days as this bill will be on behalf of our Government. The strong hand of government was stretched against that organization. Gradually those assassins were hunted down till they ceased to exist and their power was no longer feared. It is the certainty rather than severity of punishment that deters.

You all know, too, of the history of the Thugs of India—a band of murderers, stranglers, assassins, bound together by a creed, a religion, worshiping the Goddess Bowanee—a band that slew literally by the hundreds and thousands. Yet strange to say they never strangled nor slew one single Englishman. An Englishman could walk through that country alone, unarmed, right among those bands of Thugs and he would not be molested. No attempt was made to put a rope around his neck to strangle him. Why? Because in the person of an Englishman was represented the majesty and the dignity and the celerity of the English law. Those Thugs knew that if one of them slew an Englishman he would be hunted down, his whereabouts would be searched out, he would be finally discovered, and then the strong arm of the English Government would be directed against him. Eventually the English Government enacted laws for their suppression and from that hour they were doomed and in a few years the Thugs ceased to exist.

So in this country the anarchists were beginning to do as did the Old Man of the Mountains at the head of his band of assassins—as did the Thugs, organize and issue their propaganda. The members of this organization of assassins were coming over here from all parts of the world; they were sending their emissaries from here across to Italy to kill its King. These anarchists were going here and there to carry out their infamous purpose. We were making an abiding place for them. We were almost welcoming them as if they were good, law-abiding citizens. But now, let this law be passed and all will change; let us enact this bill into a law—a law which provides not only for the execution of persons who thus kill, but that keeps from our shores all persons that do not believe in organized government—and their doom is also sealed.

Let it be understood that the secret-service arm and power of this Government—yea, the Army and Navy, if necessary—and, above all, the sentiment of the whole American people, as embodied in this law, are arrayed against them, and very soon, as in the case of that "Old man of the mountains" and the Thugs, you will find these modern assassins melting away; not so much by reason of the severity of the law, not so much by reason of the fact that these crimes will be punished any more certainly and swiftly than they have been under the State governments, but by reason of the fact that these assassins will know when the effort to discover and punish is once started it will never cease, that the vigilant eye of the Government will be on them, and that, as in the case of counterfeiters, post-office robbers, and the like, there will be for the persons who commit this crime against the Government of the United States no place from one end of the earth to the other where they can feel secure. [Loud applause.]

I say to you, gentlemen, that in my judgment, if you take this law just as it is—and it is the best we could do for you; we considered it long and earnestly; we considered it conscientiously—I say if you will take and pass this law, in my opinion in less than one year from to-day you will drive the red flag of anarchy from the land, as you have already driven the black flag of piracy from the sea. [Applause.]

Mr. LANHAM. I yield now to my colleague on the committee, the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. Mr. Chairman, I desire especially to thank my friend, the gentleman from Texas [Mr. LANHAM]. He knows that my views on this bill are not his views. While he thinks that the Constitution does not extend to the protection of the President of the United States and the suppression of crimes against the Government in the way provided by this bill, I believe it does so extend. We both feel and know, however, that this legislation is not one of mere politics. We stand together in our wishes.

Three Republican Presidents have died by the hand of an assassin. Democratic Presidents may die by the assassin's hand.

It is well that this bill has now come before the House for action. It ought to have been the first work of this session. It is unfortunate that any differences of opinion in committee have delayed the bill so demanded by the whole people of the United States, who insist that the majesty of the law should step in to provide against the change of government by assassination, from whatever motive.

I am for this bill, if we can not secure a better one, but I wish a better one. I believe that in the well-considered words of the Judiciary Committee of the House, far superior to those of the Senate: "Any person who unlawfully, purposely, and knowingly kills the President of the United States" (I omit the limitations) "should suffer death," without limitation as to motive.

Mr. GILBERT. Will the gentleman allow an interruption?

Mr. PARKER. Yes.

Mr. GILBERT. There is one feature of the bill that is troubling me a little, and that is this: Suppose a man is indicted in the Federal court for a violation of that statute. Now, under the Kentucky law, where there are different degrees of the offense, a defendant is always presumed to be guilty of the lesser degree. Under this statute you make him guilty, presumptively, of the higher degree. In other words, you presume under that statute that the President has been killed by reason of the fact that he is President.

Now, suppose that that can not be established in the progress of the trial, and the man should be acquitted of that particular

offense; could he afterwards be indicted in a State court for murder? Could he plead once in jeopardy, in bar of a subsequent prosecution in the State court?

Mr. PARKER. If the gentleman had listened to me he would not have asked that question.

Mr. GILBERT. I tried to listen.

Mr. PARKER. I have left out provision as to the motive of the act. It should be left out of the law. The man who unlawfully, purposely, and knowingly kills the President should suffer death, and you should not look into the question whether he has a governmental or a personal motive.

Mr. GILBERT. But that is not the wording of the law.

Mr. PARKER. I will vote for the law if I can not strike out those words. But I am with my friend from Wisconsin [Mr. JENKINS] that the majesty of the people demands——

Mr. GILBERT. But still now, as a lawyer, and construing this statute or this bill as reported by the majority of the committee, what, in your judgment, would be the result of an acquittal in the Federal court for this specific offense?

Mr. PARKER. I think it would be dangerous.

Mr. LITTLEFIELD. The trial for the Federal offense would be in a Federal court, and the trial under the State law for murder would be in the State court. The two cases would be in different jurisdictions, and therefore the question of once in jeopardy would not arise.

Mr. PARKER. Excuse me. Did the gentleman from Maine desire to say anything?

Mr. LITTLEFIELD. No.

Mr. PARKER. I think it is dangerous. It would, perhaps, result in an acquittal in the State courts. A man could, perhaps, not be called to account twice for the same offense. If we mean to take hold of this subject, we must take hold of it by a law which the people will recognize as meeting the issue and which in the minds of the people shall not be ridiculous.

Mr. GILBERT. The gentleman from Maine just now suggested that because the man would be tried in two different jurisdictions the doctrine of once in jeopardy would not apply. I do not think that is good law in my State. If a man is tried for violation of a municipal law in a municipal court in Kentucky, and is acquitted, that does not prevent his being tried under the State law in a State court.

Mr. PARKER. I have no answer to make to that now. Those are details with which the gentleman from Maine may deal when he takes the floor. I propose to argue now why those words should be left out, why every Democrat and every Republican should insist that those words limiting the motive, intention, and circumstances should be left out of this statute. Whether this should be done by the substitute of the gentleman from Wisconsin or by amendment striking out those words from the particular section is another question.

Mr. Chairman, the country demands action. The gentleman from Texas and the gentlemen on the other side, South and North, West and East, concede that the time has come for action. At the time of the Revolution the doctrine of the right of resistance, by rebellion, if necessary, was popular. It has been established in this country.

But there was not one of the great men who stated the crimes of George III and aroused the people of this country by a declaration of independence to make war against him by land or sea. There was not one of them who would have said yea if assassination had been proposed. They felt as we did years ago, that this was impossible, and that except in the tragedies of Henry IV and William the Silent civilized nations knew nothing of assassination as a means of change of government, and that it was needless to provide special penalties against that crime.

But what have we seen? The great President of the civil war was stricken down in the moment of his triumph. "Sad life cut short just when its triumph came." We have seen Garfield murdered. And now we have seen that lovely man, the friend of the people, whom we all knew, struck down by an assassin. And the roll is not exclusively American, not merely of three Presidents in forty years. It includes the Czar of the Russias, dynamited; the President of France; the liberal premier of Spain, Canovas; alas! it also includes the sweet and lovely and mourning Empress of Austria.

In the presence of these calamities "the Old World and the New, from sea to sea, utters one voice of sympathy and shame." The New World as well as the Old says that this must not longer be. We agree except as to the form of the law. But as to the form, the whole people demand that it shall not be doubtful and that it shall be made effective so far as the President is concerned.

We have agreed upon provisions for carrying out international law as to ambassadors, but I do not argue that. I agree with the provisions of the bill, and differ with my friend from Wisconsin, that the succession should be protected, as well as the President; but I do not argue that. The danger, the practical difficulty, which we must always consider when we are discussing the meaning and the purpose of a penal statute, is the fact that the dagger and the pistol are so often directed against the man who is first in the State.

Be it from principles of anarchy, be it from lunacy, be it from that wondrous conceit which sometimes leads a man to crime for the mere sake of notoriety; be it from private quarrel, be it from any motive that is unworthy in any case, to strike down the President is a crime against the Government. Why need we argue that the killing of the President is a crime against the Constitution of the United States? We have read our Blackstone, those who are lawyers, but common sense also tells us that any injury to the public weal, to the commonwealth can be rightly punished as a crime. The question is not of injury to the man.

Lincoln, that long-suffering martyr—death brought cessation of the woes of war and of the responsibilities of peace. It was upon the people of these United States that the blow fell, when the bitterness of the North, the victorious North, was aroused against the conquered South. It is they that mourned him and it is we that mourned him. But the hand of the assassin, whether his motive was, as he shouted, "Sic semper tyrannis!" (So always to tyrants!) or whether it was the vanity of an unsuccessful actor—whether he was crazed or half crazed or not—his blow fell not on that long-suffering man who sat for long-needed rest in a theater, but upon the people of the whole country. When such an injury is done, Congress may rightly make it a crime.

When McKinley fell—he who was trusted by all, he who had brought together the two parties of this country under one flag, he whom they were ready to follow in the reconstruction of our new possessions—the blow fell not upon him. He departed from a hard-working, tiresome life to that place where the good are rewarded. The blow fell upon us—upon the people. Surely the killing of the President is an interference with government and injury to the Constitution. When that Constitution was adopted, to have killed the President would have put the Presidency in the hands of the opposite party.

Up to a few years ago it would have put the Presidency first in the hands of the President of the Senate and then in the hands of the Speaker of the House, and they might well have belonged to the opposite party, and the whole policy of the Executive might have been changed. As it is now, the work of the assassin takes the Presidency from the hands of the man who was elected thereto, and puts it first in the hands of the man who was elected only as a substitute, and then with those who are named by that substitute in the Cabinet.

Can any man pretend that the act itself, whether or not done by reason of official character or done by reason of official acts or done to a President engaged in official duties—can anyone pretend that that act, however done, does not have a wrongful, harmful influence, which is not contemplated by law, upon the institutions and the Government of the United States, changing the policy with its Executive, and perhaps introducing anger and malice, as the death of Canovas brought Weylerism into Spain. We remember our own examples. This is not mere theory law; it is elementary law. Treason by the English law was not odious because it was an act against the king, against his person, but because of the attack upon the realm. I read from the seventy-seventh page of the fourth of Blackstone:

When a man doth compass or imagine the death of our lord the King, the King here intended is the King in possession, without any respect to his title, for it is held that a King be de facto and not de jure, or, in other words, an usurper that hath got possession of the throne is a King within the meaning of the statute, as there is a temporary allegiance due to him for his administration of the Government and temporary protection of the public, and therefore treasons committed against Henry VI were punished under Edward IV, though all the line of Lancaster had been previously declared usurpers by act of Parliament.

Blackstone says distinctly that every crime against the Government may involve likewise a private injury—that is to say, a person in imagining the King's death involves in it conspiracy against the individual—that is to say, a civil injury—and as this species of treason in its consequence principally tends to a dissolution of the Government, and destruction thereby of the order and peace of society, that is denominated a crime of the highest magnitude.

III Blackstone, page 2: Public wrongs are a breach and violation of public rights and duties which affect the whole community, considered as a community, and are distinguished by the harsher appellation of crimes and misdemeanors.

IV Blackstone, page 5: Public wrongs or crimes and misdemeanors are a breach and violation of the public rights and duties due to the whole community, considered as a community, in its social aggregate capacity. * * * Treason, murder, and robbery are properly ranked among crimes, since, besides the injury done to individuals, they strike at the very being of society, which can not possibly subsist where actions of this sort are suffered to escape with impunity.

In all cases the crime includes an injury; every public offense is also a private wrong and somewhat more; it affects the individual, and it likewise affects the community. Thus treason in imagining the king's death involves in it conspiracy against an individual, which is also a civil injury; but as this species of treason in its consequences principally tends to the dissolution of government and the destruction thereby of the order and peace of society, this denominates it a crime of the highest magnitude.

Let us apply these words. A man who conspires against and kills the President commits a crime against the State in killing an individual and disturbing the public peace. That is tried by the State and not by the United States. But, at the same time, and inasmuch as he likewise disturbes the General Government and the peace and order of society in that Government by killing the President, it is rightfully a crime against the United States and all who support that Government.

Mr. GILBERT. Could he be punished for both?

Mr. PARKER. I think the greater includes the less. This is a new question, and I answer it with all humility, as a lawyer must do a question that has never been determined. If a man is indicted for murder, and acquitted, he can not be afterwards seized for assault and battery. I think that may be so here.

Mr. RAY of New York. Will the gentleman permit an interruption?

Mr. PARKER. Certainly.

Mr. RAY of New York. The gentleman says it is a new question. If the gentleman will turn to the RECORD, to the cases I have cited in connection with my remarks on this bill, he will see times that where some act offends against the General Governthat it is not a new question—that it has been decided a half dozen ment and also against the State the offender may be tried by the General Government for the act, and, if convicted, he must satisfy its judgment, and then the State may take him for the same act and try him and imprison him again, not for the same crime, for the crimes are different.

Of course, if one has taken the life of the criminal, he is beyond a second punishment. And vice versa. In the one case it is an offense against the United States, an infringement of the power and sovereignty or the United States, and in the other it is punished by the State because it is an infringement of the sovereignty of the State, a breach of its peace, and therefore one may punish and then the other, and a plea that he had been convicted for a crime growing out of that act—not that offense, because it is not the same offense—in the United States court, is not a bar to a prosecution in the State court.

Mr. GILBERT. But suppose a man is being imprisoned in execution of a judgment of the Federal court, or suppose he is in the penitentiary in execution of a judgment of a State court, can he be taken out of the jurisdiction of one and transferred to the other while the punishment is going on?

Mr. RAY of New York. Oh, the gentleman is asking if the United States would go into a State where the State had convicted a man and put him in prison—if the United States would take him from the State and proceed against him while the punishment under the State judgment was being executed.

Of course the United States would not do that, even had it the power, nor would the State do it against the United States, because the United States is supreme. The United States might possibly have power to take a prisoner away from a State, but I do not believe it would; and if it had the power, it would never exercise it But a law may be enacted to cover such cases and permit a trial by the Federal authority even when the judgment of the State is being executed.

The gentleman ought to know there is no doubt of the constitutionality of a bill doing that very thing because the Committee on the Judiciary has reported such a bill in this Congress and I think at his request—a bill I am informed introduced by him—a bill which will permit the taking of a prisoner from one jurisdiction to be tried in another jurisdiction and providing for his return to the jurisdiction from which he was taken, and after satisfying this other jurisdiction. The gentleman knows perfectly well that that can be done by law; but it would have to be done with the concurrence of the two jurisdictions.

Mr. STEWART of New Jersey. Can the gentleman conceive of the case of a person tried for murder in a Federal court and acquitted and then tried by a State court for the same offense?

Mr. RAY of New York. A man can not be tried in the United States of America in a Federal court for a murder committed within a State, because, as has been held over and over again, the offense of murder is cognizable only by the State; murder is an offense against the State, the peace of the State, and the State only.

But if the man murdered is an officer of the United States, then it is not the offense against the State which the United States punishes. It punishes the offense against the Government of the United States, the sovereignty of which is infringed and resisted when an attack is made upon an officer of the United States. The ground of jurisdiction and action in the two cases is entirely different.

Mr. STEWART of New Jersey. Suppose this bill should be passed and Mr. Roosevelt, being President of the United States, should be killed in the city of New York. Suppose the murderer is indicted and tried here in the city of Washington under this bill.

Mr. RAY of New York. That could not be. No such thing could be done; because the Constitution of the United States in express terms says that whenever an offense is committed against the United States the offender must be indicted and tried in the State in which the offense is committed.

Mr. LANHAM. In the district.

Mr. RAY of New York. Yes; and in the district in the State previously defined by Congress.

Mr. STEWART of New Jersey. But under this bill, suppose the man in the case I have supposed is tried before a Federal court and jury and is acquitted, could he then be indicted and tried in a State court?

Mr. RAY of New York. In New York?

Mr. STEWART of New Jersey. In New York.

Mr. RAY of New York. Certainly. That has been settled a dozen times. The ground of the offense being different, he may be tried first by the State and then by the United States, not for the same offense but for different offenses, both growing out of the same act. I refer you to United States *v.* Cruikshank.

Now, Mr. Chairman, I yield fifteen minutes additional to the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. I thank the gentleman from New York for yielding to me. I am speaking on his side and have done so from the beginning. I differ with him only in that I want to make the bill absolutely effective. I thank the gentleman for the elucidation he has made of the point that was brought out by a question. That point, however, is not essential to my argument. The law ought to be such that both crimes may be punishable, and that a man who has been guilty of murder may be punished for murder. An assassin should be punished for murder in the State courts if the United States law prove ineffective. But we hope that our bill may be so drawn as not to be ineffective. We owe that to the people, and they will hold us to the performance of that duty.

Mr. RAY of New York. May I ask the gentleman a question?

Mr. PARKER. I would rather proceed at present.

The nation has the right generally to protect its President from unlawful killing in order to protect itself. The personal motives of the criminal have nothing to do with the question. Personal motives do not justify an attack on a private citizen, much less upon the President of the United States. Self-defense makes an act lawful; but if it is unlawful personal motives do not prevent its being murder. Personal motives do not prevent an act being a crime against the Government if it be such an act as directly and necessarily interferes with the powers and functions of the Government.

No personal motives can justify or even excuse an injury to the whole people. Imagine the case of personal grudges being allowed to excuse an attack upon the President. We humble men may go through this world without much risk of a quarrel with the few men whom we are called upon to meet. But if every man who has a personal grievance with the President is allowed to attack him and find justification or excuse by reason of his personal grievance, think what would be the consequences. Think how many persons the President may meet every day. Think of how many thousands may feel themselves injured by something he has done.

Mr. LITTLEFIELD. Will the gentleman allow me a moment?

Mr. PARKER. I prefer not to be interrupted.

Mr. LITTLEFIELD. Only a question.

Mr. PARKER. Very well; I yield for a question.

Mr. LITTLEFIELD. I understood the gentleman to state that the intent—in other words, the motive—of the party had nothing to do with the crime. Did the gentleman really mean to be so understood?

Mr. PARKER. In the sense in which I have given it, yes. When you take a pistol and hold it at my head and shoot, your intent to kill is presumed.

Mr. LITTLEFIELD. Oh, yes.

Mr. PARKER. Your motive in the act is of very little importance. Personal motives sometimes excuse, though they do not justify, an attack upon a man. No personal motive can justify an injury to the whole people. Personal motives in the case of grave injuries sometimes excuse a man in taking a rifle and shooting another. They may not justify him, but they excuse him in the minds of a jury. But if that man stands in the midst of a crowd of innocent people, so that the rifle shot from his hands may kill an innocent person, he is held to the consequences. So here.

A man might have personal motives against the man that is President, but if he act upon those personal motives, those personal grudges, or that personal quarrel, and kills the President, he shoots, through the President, at the whole people of the United States. He breaks up the Government. He can not be justified in the law; he must be held to have intended what he did, namely, to change the Executive of a nation by violence. No law will meet the demands of the people which asks to go

into what his reasons were, if he intentionally, willfully, and unlawfully did the act.

Now, the common law continually makes the distinction, and makes lawful private acts unlawful whenever they interfere with the public peace or governmental functions. You can take an execution lawfully against a man to take his body, but on that execution you can not break the door of his private dwelling because it disturbs the public peace. Even a lawful act is thus unlawful where it interferes with the peace of the community, just as what might be an excusable act may be unlawful where it interferes with the peace and government of a nation. The law allows a private owner, by gentle resistence, to prevent trespass upon his land, but if he finds it will lead to bloodshed he must yield rather than break the peace.

Mr. RAY of New York. May I interrupt the gentleman there?

Mr. PARKER. Wait until I get through with the sentence. The law allows a man to pass through the public streets. It orders him not to pass if his passage would add to a riotous crowd. The law allows a man to repel violence, but not by such means as would fall upon innocent parties. The law always in dealing with public matters deals with the question of public welfare and even takes away private rights. Much more shall it hold that a wrong to a man which likewise interferes with governmental functions shall be held an injury to the Government, a governmental crime. Now I will yield to the gentleman from New York.

Mr. RAY of New York. I understand the gentleman to say—and I will repeat it to see that I did not misunderstand him—that a man might by gentle force repel another who undertook against his will to trespass or force himself upon his land.

Mr. PARKER. On his land, not in his house.

Mr. RAY of New York. But that he could not go beyond that. Is that what I understand?

Mr. PARKER. The law in our State is that if it will lead to bloodshed, he must go no further. I know the other to be the common law.

Mr. RAY of New York. But we are talking here about United States law, and the Supreme Court of the United States—and I will call the attention of the gentleman to the case—has decided that the owner of land in peaceable possession may stand there and forbid a man to come on, and he may repel him by gentle force. If he still persists in coming, he may defend the possession of that land, as well as his house, by the exercise of necessary force, even to the taking of life.

Mr. PARKER. Let me admit it. I do not want to dispute with the gentleman. The law in England held the contrary and the law of many of the States holds the contrary. I am simply giving examples in which the law makes the public benefit paramount, and I may say, as in this case, that to kill a President is not so much an injury to the man as an injury to the country, and that the man who does that injury willfully and maliciously shall be punished for that wrong to the nation.

All these cases are governed by the great legal principle that private rights may not be set up in such a manner as to invade public rights, and even that the private injury shall be merged sometimes in that of the public, so that sometimes the only remedy is by indictment and only the public injury may be prosecuted. These principles are fundamental. It is against all principle of government that a man may prosecute his private injury against the President by personal violence which would interfere with the President's official action. It is not because there is any divinity in the man. It is because the whole nation hangs upon the office, and therefore, without limitation of motive, whosoever in the United States or any place subject to its jurisdiction willfully, maliciously kills or causes the death of the President should be subject to death.

There is no political question in this. The great Democratic lawyers of the Senate have united in a section which so says. It seems to me that in the endeavor to follow decided cases and case law the gentlemen who have reported in favor of this limiting clause of the bill—not of the bill, for I am in favor of that, but the gentlemen who have reported in favor of the limitations—have entirely escaped and forgotten the principles upon which a statute of this kind should rest.

Those cases do not support their views. They have been so thoroughly analyzed by the gentleman from Wisconsin [Mr. JENKINS], a member of the committee, that it is only necessary briefly to point out to the House what those cases decide. There is a long line of cases decided in the Supreme Court holding that a marshal or deputy marshal can not be indicted and convicted except for an act performed within his official duties.

Mr. RAY of New York. You do not mean that. You do not mean what you have just said.

Mr. PARKER. I do not mean that. I mean that the person who interferes can not be convicted, except when the marshal is engaged in the performance of an official duty.

Mr. RAY of New York. The person assaulting or resisting one of these officers can not be indicted by the United States courts except where the officer is engaged in the performance of an official duty if the offense be committed within a State.

Mr. PARKER. The person who attacks the marshal can not be indicted unless that attack be made against the marshal in the performance of his official duties——

Mr. RAY of New York. That is right.

Mr. PARKER. Now, gentlemen, do not interrupt me, but please let me go ahead. I object to that sort of an interruption.

The CHAIRMAN. The gentleman declines to be interrupted.

Mr. RAY of New York. I simply want to ask a question, that is all.

Mr. PARKER. Fifty questions would divert me from my argument.

Mr. RAY of New York. I only want to ask one question.

Mr. PARKER. Go ahead and ask one question. I was in the middle of a sentence.

Mr. RAY of New York. I want to ask the gentleman if it was not held in England that if the lawful king was out of his office and a usurper was in, that then it was not treason to kill the lawful king?

Mr. PARKER. Yes; it was so held.

Mr. RAY of New York. Therefore——

Mr. PARKER. No; let me answer that. I do not want to be further interrupted. I am glad the gentleman called my attention to that, for it is in what I have read. It was held that to kill the lawful King was not treason, because he was not reigning and the people were not depending upon him. It was held that to kill the usurper was treason, because the people were depending upon him. You will find that in 4 Blackstone, 77. The point was always whether the man the King was vested with the actual office, and the point in this case is not whether the President is signing a paper, but whether he is President, charged with the duties of that office—functus officio. If so, to kill him is to take away that office from the choice of the people and put it in the hands of some other person not chosen by the people.

Now, the gentleman has interrupted me in the middle of a sentence with an outside question. The cases cited by him were cases which said that a man could not be indicted for assaulting a marshal unless the marshal was engaged in the performance of his official duties. It is true; but if anyone here in this House will look at section 5398 of the Revised Statutes he will find that it is provided by statute that any man who obstructs, resists, assaults, or prevents a marshal from executing a writ intrusted to him shall be punished, and the decisions of the courts were under that statute. I quote from memory.

Gentlemen do not notice the next section of the Revised Statutes, section 5399, which I commend to their consideration, although it is not in point, except on the point that they now bring up. Section 5399 provides that every person who corruptly or by threats or force endeavors to influence, intimidate, or impede any witness or officer in any court of the United States in the discharge of his duty, or corruptly or by threat or force obstructs, impedes, or endeavors to obstruct or impede the due administration of justice therein, shall be punished.

It has never been held under that statute that you had to threaten the witness when he was in court giving testimony. It has been held that it was an infringement of that statute for a man to threaten with a pistol a man who was counsel, and tell him if he proceeded with the examination he would kill him. The point is not whether he was actually engaged in those duties, but whether those duties were laid upon him. If those duties were laid upon him, to tell the truth or to proceed as counsel, and as an officer, just as greater duties are laid upon the President of the United States, and a mere threat is criminal, much more the killing of a man, to prevent the performance of that duty.

Mr. LITTLEFIELD. Will the gentleman permit me to interrupt him?

Mr. PARKER. If it is on this point.

Mr. LITTLEFIELD. It is right on this point. You cite section 5398 as well as 5399. I understand you to say that the decisions are under that section?

Mr. PARKER. No; not all your decisions.

Mr. LITTLEFIELD. Oh, very well. I understood you to say so.

Mr. RAY of New York. Will the gentleman name any one decision that I have cited that is under that section? I have failed to discover any in the discussion of that section.

Mr. LITTLEFIELD. Not a single one.

Mr. RAY of New York. Not a single one, and every case I have cited was under the other section of the statutes or not under any statute at all.

Mr. PARKER. I think that the decision which is cited by the gentleman—I do not know whether I could turn immediately to the page, as I am not as familiar with his own report as he is—

but I think you will find one dicta of the court to which he refers——

Mr. CRUMPACKER. But not the same section, except one.

Mr. PARKER. I will not discuss that question. I am giving my opinion, and I only incidentally turned to this subject.

Mr. LITTLEFIELD. But I am going to state——

Mr. PARKER. The gentleman must not interrupt me. It is a quarter to 5, and I want to conclude my remarks in that time.

Mr. LITTLEFIELD. Now, the gentleman does not want to make any imputation, as has been made.

Mr. PARKER. There is nothing in anything that I have said in which I meant any imputation upon the gentleman.

Mr. LITTLEFIELD. I did not think you did.

Mr. PARKER. But he did not, I hope, understand that such an imputation had been made.

Mr. LITTLEFIELD. But I thought your remark applied to me.

Mr. PARKER. I did not intend it. I never had anything but courtesy from the gentleman, and never intend to have anything else. He and I are good friends. I know what any man suffers who comes under his lash.

Mr. LITTLEFIELD. But you need have no fear about that.

Mr. PARKER. Well, there will be no question about that, then.

Now, there are other cases referred to by the committee—cases under the fourteenth amendment of the Constitution and civil-rights act. They are not cases as to officers, but only decide that the fourteenth amendment of the Constitution will prevent the States from passing laws which would impair civil rights, but do not confer upon the United States the right to pass laws to take charge of those rights and guarantee them. Have I stated that correctly?

Mr. LITTLEFIELD. Yes.

Mr. PARKER. Now, the last case particularly referred to by the committee is the Neagle case. I looked over that case some months ago. It is oddly enough founded upon a statute. Neagle, remember, was a marshal of the United States; he was attending the judge passing from one part of California to another while holding circuit, and he shot down a man who attempted to attack him.

Mr. LITTLEFIELD. Would the gentleman desire aid to correct him in his recollection?

Mr. PARKER. Not in this.

Mr. LITTLEFIELD. Because the majority and the minority opinions state that there was no statute. That was the great controversy in the case.

Mr. PARKER. On the contrary, there was a statute.

Mr. LITTLEFIELD. In that case?

Mr. PARKER. In that case. I have been through it, and I challenge the gentleman with reference to my recollection in this matter.

Mr. LITTLEFIELD. I may be wrong, possibly.

Mr. PARKER. There was a statute of the United States which gave the marshal of the United States the same power as the sheriff of the State in which the district was situated.

Mr. LITTLEFIELD. You are right about that.

Mr. PARKER. There was a statute in the State of California which gave to the sheriff the duty—I am speaking not in exact words—the duty of attending and taking care of the court while the justice was upon the circuit. Thereupon the question came up, first, as to whether the marshal had the same powers as the sheriff, and that was decided in the affirmative in the interests of the United States.

The question likewise came up whether the judge traveling the circuit was to be considered as holding court, so that the marshal was actually in charge, and it was decided that in traveling from one point to another it should be held that he was holding court. The point, therefore, was whether the attack was made upon him when he was in the discharge of his official duties, when the marshal was his personal protector under the statute of California. Now, the sheriff, under the political code of California, had the right to "prevent and suppress affrays, breaches of the peace, riots, and insurrections." There is a statute which made the sheriff attend upon the judge at the time of the court.

Mr. RAY of New York. If the gentleman will permit, there was a statute of the United States which gave to the United States marshal precisely the same power and the right to exercise precisely the same duty as the sheriff in the State of California. Now, if you have the statute, I will not state it further.

Mr. LITTLEFIELD. There is a statute which the gentleman from New Jersey referred to, but the use made of it in that case was not the use which the gentleman had in his mind.

Mr. RAY of New York. There was no statute giving jurisdiction to anybody to protect the officer, either in the performance of his duty or otherwise. The Attorney-General directed it to be done. He acted for the President.

Mr. SMITH of Kentucky. It was a statute that provided that the officer should prevent breaches of the peace.

Mr. PARKER. It was a statute giving the sheriff power to prevent breaches of the peace and riots and insurrection.

Mr. RAY of New York. And giving the United States marshal the same power that the sheriff had under the laws of California. The point of it is that there was no statute providing especially for the protection of the justices of the Supreme Court. Hence the decision defining the jurisdiction of the United States in such cases under the Constitution.

Mr. KLEBERG. There is a civil statute that requires the marshal to attend and open court.

Mr. LITTLEFIELD. But the use made of the statute was not the use that the gentleman from New Jersey had in his mind. I am absolutely certain of that, for I have read the case within two hours.

Mr. PARKER. Now, Mr. Chairman, the Neagle case is not authority here. In order to assert the exclusive jurisdiction of the United States court in the Neagle case—that is to say, the right of the United States court to take the marshal away from the State court, where he was held under indictment for murder—it was necessary to assert and to prove that the marshal was then engaged in a particular duty imposed upon him by the law. It was held to be his duty to attend the judge while holding court.

It was essential to show that in doing what he did he acted within his duty and powers as marshal of the United States; otherwise the United States jurisdiction was not exclusive under the statute. But that does not say that the United States can not pass a law which shall protect the President and his office, for his office is his duty. It does not say that Congress may not say that no man with a pistol shall destroy the office of President and turn it over to some one else. It does not say that a pistol shot against the Executive shall be merely a murder unless the President is sitting down with a pen in his hand and engaged in his official duty.

It does not say you shall look into the motives in the mind of the man in doing the act when the consequences of whose act are so direct that an intention to interfere with the Government of the United States must be presumed. Neither does the Constitution declare any such folly. The law has been decided over and over again, and first by Chief Justice Marshall in the great case of McCulloch against Maryland, that the Government has all powers that are necessary in order to carry the Constitution into effect and to protect its operations. And the greatest of all these operations of the Constitution, the greatest vested in any one man, is the executive power and the discretion vested in the President of the United States.

Mr. Chairman, I have not concluded what I have to say.

Mr. LITTLEFIELD. Mr. Chairman, I ask unanimous consent that the gentleman may have leave to proceed and finish his remarks.

The CHAIRMAN. The gentleman from New Jersey has five minutes remaining.

Mr. PARKER. I will use that five minutes, Mr. Chairman, and may be able to get through in that time. The natural and necessary result of a successful assault upon the President would be to prevent his doing his official duties.

What difference is there if he is then engaged in them? If so engaged, the assault stops the performance of his duties. If not so engaged, the assault prevents the performance of those duties. They are not special and single duties imposed upon him by any writ or warrant. They are continuous, or, rather, recurrent, and the recreation he takes—his sleep, rest, and recreation—are but his preparation for continuing those duties. It is not an interference with his action at any particular time that constitutes the crime. It is the interference with his office that is the crime. No divinity or sacredness is given to the man; it is only for the protection of the office that he is to be protected.

Now, I pass, if the committee pleases, to the question if there is any harm in these provisions of limitation reported by the committee. They tell us that they do no harm because he is always engaged in his official duties. Engaged in his official duties! The statute recognizes that he sometimes is engaged and that sometimes there are cases when he is not so engaged. The jury, under the instructions of the court, must decide that fact. If the facts are before them, the presumption declared by the last section stands for nothing, even if it is right, to presume a man guilty rather than innocent.

To insist that it must be proved that the President was killed because of his official character or because of his official acts is to put the burden of proof upon the Government—to compel it to prove what is immaterial and what may not be proved. The act is there; its consequences are direct. The motive to bring about those consequences must be presumed. If you shoot a man, it is no defense to prove that you had a different motive from that of killing him. Sir, such a rule would absolutely tie up courts and juries.

This bill will not commend itself to the people without amendment. We are relied upon to enact a law which shall be effective. We are trusted to do it. We shall never be forgiven if we put upon the statute books an act which is not adequate to deal with the crime. That crime is the killing of the President of the United States willfully and unlawfully. The question is not why or wherefore, or where the President is or where he is going to be. It is the fact that he is vested with this office, and that to kill him is to interfere with the functions of the office. That is the crime against which we are ordered to protect the country.

I believe that the gentlemen who have introduced those limitations are not really and heartily in favor of them. I believe that they have introduced them out of extra caution, lest the Supreme Court, following old cases, may set aside the act. Sir, there is a caution which is more dangerous than the courage which proceeds upon direct principle, which looks first to see whether there is a public injury, which determines that there is a public injury and interference with the Constitution of the United States in killing the President, and then provides that this act shall be punished by death, and which even goes further and declares that the attempt shall be punished by death. I do not agree with the gentleman from Ohio, who says that the attempt shall not be punished by death. Why, sir, the man who is successful gets the glory sought by the vain; but if he knows he is not to be punished except to a measured extent when there is a want of success, he will take the risk.

This country must have what has been found necessary in every other nation, what we thought we could get along without, what we believed the sentiment of the people would permit us to dispense with. We must have a law which will punish severely the compassing of the death of the Chief Executive of this country, not because he is any better man, not because of any injury to the man, but because such an act breaks up the Government, destroys the confidence of the people, because it separates the President from the people.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. PARKER. I will say only in conclusion that I support this bill as it stands, but I shall vote for an amendment striking out the words which I have commented upon.

Mr. RAY of New York. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. DALZELL having taken the chair as Speaker pro tempore, Mr. GROSVENOR reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (S. 3653) for the protection of the President of the United States, and for other purposes, had come to no resolution thereon.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 2295. An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes—to the Committee on Insular Affairs.

S. R. 111. Joint resolution limiting the gratuitous distribution of the Woodsman's Handbook to the Senate, the House of Representatives, and the Department of Agriculture—to the Committee on Printing.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FEELY, for two weeks, on account of important business.

To Mr. MILLER, for three days, on account of sickness.

And then, on motion of Mr. RAY of New York (at 5 o'clock and 5 minutes p. m.), the House adjourned.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 2845) to purchase from the compiler, Francis B. Heitman, the manuscript of the Historical Register United States Army, from 1789 to 1901, reported the same with amendment, accompanied by a report (No. 2345); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12155) granting an increase of pension to Joseph Robertson, reported the same with amendments, accompanied by a report (No. 2343); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. HULL, from the Committee on Military Affairs, to which was referred the resolution of the House (H. R. 274) requesting the Secretary of War to report to the House a detailed itemized account of expenditures made by General Wood as military governor of Cuba, reported the same adversely, accompanied by a report (No. 2342); which said resolution and report were ordered to lie on the table.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 5104) relinquishing to Genevieve Laighton, widow of Capt. Samuel Laighton, title of United States to certain lands in the State of Arkansas, reported the same adversely, accompanied by a report (No. 2344); which said bill and report were ordered to lie on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. OVERSTREET: A bill (H. R. 14898) relating to jurisdiction on appeals in the court of appeals of the District of Columbia, and transcripts on appeals in said court, and to quiet title to public lands—to the Committee on the Judiciary.

By Mr. PEARRE: A bill (H. R. 14899) to amend an act entitled "An act to incorporate the National Florence Crittenton Mission"—to the Committee on the District of Columbia.

By Mr. GREENE of Massachusetts: A bill (H. R. 14900) to authorize the laying and maintaining of a pneumatic-tube system between the Capitol and the Government Printing Office, in the city of Washington, in the District of Columbia—to the Committee on the District of Columbia.

By Mr. CAPRON: A bill (H. R. 14918) for the construction of a submarine boat of the Moriarty type—to the Committee on Naval Affairs.

By Mr. KAHN: A bill (H. R. 14919) relating to the allowance of exceptions—to the Committee on the Judiciary.

By Mr. THOMPSON: A bill (H. R. 14920) to provide for the erection and maintenance of a Soldiers' Home in the Fifth Congressional district of Alabama, and an appropriation of $100,000 for same—to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAMSON: A bill (H. R. 14901) for the relief of the legal representatives of W. L. Gordon, deceased—to the Committee on War Claims.

By Mr. BEIDLER: A bill (H. R. 14902) to correct the naval record of John Rohrer—to the Committee on Naval Affairs.

By Mr. BURNETT: A bill (H. R. 14903) granting an increase of pension to James H. Martin, of Cullman County, Ala.—to the Committee on Pensions.

By Mr. FOSS: A bill (H. R. 14904) for the relief of Charles Sommer—to the Committee on Invalid Pensions.

By Mr. HILL (by request): A bill (H. R. 14905) for the relief of the representatives of M. F. Merritt, deceased—to the Committee on War Claims.

By Mr. LESSLER (by request): A bill (H. R. 14906) for the relief of Anna M. King—to the Committee on Claims.

By Mr. McLAIN: A bill (H. R. 14907) granting an increase of pension to John F. Davis—to the Committee on Pensions.

Also, a bill (H. R. 14908) granting a pension to Henry McGlodry—to the Committee on Pensions.

Also, a bill (H. R. 14909) granting a pension to Bunyan H. Byrd—to the Committee on Pensions.

By Mr. REEDER: A bill (H. R. 14910) granting a pension to Edith L. Draper—to the Committee on Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 14911) granting an increase of pension to David Love—to the Committee on Invalid Pensions.

By Mr. HENRY C. SMITH: A bill (H. R. 14912) granting an increase of pension to Theodore Miller—to the Committee on Invalid Pensions.

By Mr. WILEY: A bill (H. R. 14913) granting an increase of pension to Ann M. Morrison—to the Committee on Pensions.

By Mr. KAHN: A bill (H. R. 14914) to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire—to the Committee on Claims.

Also, a bill (H. R. 14915) for the relief of M. Esberg and others—to the Committee on Claims.

By Mr. TAWNEY: A bill (H. R. 14916) granting an increase

of pension to William W. Gilbert—to the Committee on Invalid Pensions.

By Mr. WARNOCK: A bill (H. R. 14917) to give credit to Jacob Parrott for receiving the first medal of honor for services in our late civil war—to the Committee on Military Affairs.

By Mr. HILDEBRANT: A resolution (H. Res. 288) to pay E. G. Johnson for services in caring for and regulating the House chronometer—to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BALL: Sundry petitions of various posts of the Grand Army of the Republic in the States of Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Montana, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Wisconsin, Washington, West Virginia, Wyoming, and Oklahoma Territory for the passage of House bill 13986 to modify and simplify the pension laws—to the Committee on Invalid Pensions.

By Mr. BEIDLER: Papers to accompany House bill to amend the record of John Rohrer—to the Committee on Naval Affairs.

Also, resolutions of Liquor Dealers' Benevolent and Protective Association of Cleveland, Ohio, favoring House bills 178 and 179, for reduction of tax on liquor—to the Committee on Ways and Means.

Also, resolutions of St. Patrick's congregation, of Cleveland, Ohio, protesting against the administration of affairs in the Philippines, especially against the disregard of the Catholic faith and institutions of the people—to the Committee on Insular Affairs.

By Mr. BURKETT: Petitions of citizens and old soldiers of Kearney, Nebr.; Lime Creek, Piedmont, Everton, and Gainsville, Mo.; Sylvia, Ark., and citizens of the State of Kansas, in favor of the passage of House bill 7475, for additional homesteads—to the Committee on the Public Lands.

Also, resolutions of the executive council of the Bankers' Association of Nebraska, in opposition to the so-called branch banking bill—to the Committee on Banking and Currency,

By Mr. DALZELL: Papers relative to continuing and compiling the House reports from the Forty-sixth to the Fifty-sixth Congresses—to the Committee on Printing.

By Mr. FOSS: Petitions of Turn Gemeinds Verein and Socialer Turn Verein, of Chicago, Ill., in relation to House bill 12199—to the Committee on Immigration and Naturalization.

By Mr. HANBURY: Resolutions of Electrical Workers' Brotherhood No. 3, of New York City, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. HITT: Memorial of Mr. Jefferson Chandler, asking for the purchase by the Government of the buildings and contents known as the "Halls of the Ancients," in the city of Washington, D. C.—to the Committee on the Library.

By Mr. HOWELL: Petition of fire commissioners of Hoboken, N. J., favoring the passage of House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. JACKSON of Kansas: Resolutions of the Industrial Council of Pittsburg, Kans., favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. KAHN: Resolutions of Brotherhood of Carpenters and Joiners' Union No. 304, of San Francisco, Cal., in relation to the Boer war—to the Committee on Foreign Affairs.

By Mr. LESSLER (by request): Papers to accompany House bill for the relief of Ann M. King—to the Committee on Claims.

By Mr. LITTLE: Papers to accompany House bill 14852, granting an increase of pension to Melvina Dunlap—to the Committee on Pensions.

By Mr. McCLELLAN: Petition of citizens of New York City, in favor of the passage of House bill 12203—to the Committee on Invalid Pensions.

By Mr. MORRIS: Resolutions of Willis A. Gorman Post, No. 13, of Duluth; Wallace T. Rines Post, No. 142, of Princeton, and Buzzell Post, No. 24, of Annandale, Grand Army of the Republic, Department of Minnesota, favoring House bill 3067, relating to pensions—to the Committee on Invalid Pensions.

By Mr. RHEA of Virginia: Papers to accompany bill for the relief of Leander J. Keller—to the Committee on War Claims.

By Mr. RUSSELL: Resolution of Men's Assembly of the Methodist Episcopal Church of Middletown, Conn., in favor of reciprocal commercial relations with Cuba—to the Committee on Ways and Means.

By Mr. RYAN: Resolutions of the General Society of the Sons of the Revolution, favoring the erection of a statue to the late Brigadier-General Count Pulaski at Washington—to the Committee on the Library.

By Mr. SCOTT: Resolutions of the Industrial Council of Pittsburg, Kans., favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

Also, resolutions of National Business League of Chicago, Ill., favoring the establishment of a department of commerce and industries—to the Committee on Interstate and Foreign Commerce.

By Mr. HENRY C. SMITH: Resolutions of Welch Post, No. 137, Grand Army of the Republic, Department of Michigan, favoring the passage of House bills 12203 and 12204—to the Committee on Invalid Pensions.

By Mr. SPERRY: Resolutions of the Men's Assembly of the Methodist Episcopal Church of Middletown, Conn., for reciprocal trade relations with Cuba—to the Committee on Ways and Means.

SENATE.

THURSDAY, *June 5, 1902.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

CHANNELS AT NAVY-YARDS ON PACIFIC COAST.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Navy, transmitting, in response to a resolution of the 22d ultimo, certain information from the Chiefs of the Bureaus of Yards and Docks and Navigation, relative to the depth of water at different places, at low tide, in the channel leading from the sea to the Mare Island Navy-Yard, etc.; which was referred to the Committee on Naval Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House to the following bills:

A bill (S. 4071) granting an increase of pension to George C. Tilhman; and

A bill (S. 4927) granting an increase of pension to Hattie M. Whitney.

PETITIONS AND MEMORIALS.

Mr. FOSTER of Washington presented a memorial of the Western Central Labor Union, American Federation of Labor, of Seattle, Wash., remonstrating against the enactment of legislation to maintain the gold standard, to provide an elastic currency, to equalize the rates of interest throughout the country, etc.; which was referred to the Committee on Finance.

Mr. FORAKER presented petitions of the Liquor Dealers' Benevolent and Protective Association of Cleveland, of the Chamber of Commerce of Cincinnati, and of 10 citizens of Cincinnati, all in the State of Ohio, praying for the adoption of certain amendments to the internal-revenue laws relative to the tax on distilled spirits; which were referred to the Committee on Finance.

He also presented a resolution adopted at a meeting of the Turngemeinde of Dayton, Ohio, expressing sympathy with the people of the South African Republic and the Orange Free State; which was referred to the Committee on Foreign Relations.

He also presented petitions of the Trades and Labor Assembly of Masillon; of the Central Labor Council, of Cincinnati, and of the Central Trades and Labor Council, of Zanesville, all of the American Federation of Labor, in the State of Ohio, praying for the enactment of legislation to increase the salaries of letter carriers; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Woman's Christian Temperance Union of Huron County; of the Young People's Society of Christian Endeavor of Greenwich, and of sundry citizens of Peru, Norwalk, Wellington, and North Fairfield, all in the State of Ohio, praying for the adoption of certain amendments to the so-called anticanteen law; which were referred to the Committee on Military Affairs.

Mr. CULLOM presented a petition of the D. Rothschilds Grain Company and sundry other business firms of Peoria, Ill., and the petition of W. O. Potter and 93 other citizens of Williamson County, Ill., praying for a reduction of the tax on distilled liquors; which were referred to the Committee on Finance.